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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO. 53/2004

Date of decision: 15.07.2004

CORAM:

**Hon'ble Mr. M.L. Chauhan, Judicial Member
Hon'ble Mr. M.K. Misra, Administrative Member**

1. Jethmal Kalloson of Shri Bheru Bux aged 69 years resident of 3-A-19, 1st Pulia Housing Board, Jodhpur.
2. Jawahar Lal son of Shri Bhanwar Lal Kansara aged 67 years resident of 103, Jain Street, Sarafa Bazar, Jodhpur.
(Both retired as C.T.I. Railway, Bikaner Division)

...Applicant

V e r s u s

1. Union of India through General Manager, Northern Railway (Head Quarter Office) Baroda House, New Delhi.
2. Divisional Railway Manager, North West Railway, Bikaner Division, Bikaner.
3. General Manager, North West Railway, Jaipur.

...Respondents

Mr. G.K. Vyas, counsel for the applicants.

O R D E R

PER M.L. CHAUHAN, JUDICIAL MEMBER

The applicant has filed this Original Application thereby praying for the following relief:

"It is most respectfully submitted that the respondents may be directed to forthwith step up the pay scale of the applicants equal to the pay scales of the junior employees came over as T.T.E. with the higher pay alongwtih 12% interest from the date this falling due till the date of payment. They may be further directed to finalize the retrial benefits of the applicants in consequence to the said

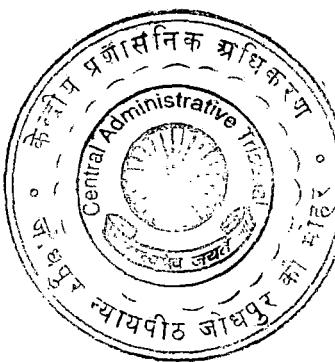


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stepping up of the pay scales and to grant all the consequential benefits."

2. From the averments made in the application, it is clear that the applicant earlier raised Industrial dispute before the Presiding Officer, (Central) Labour Court, New Delhi and the Labour Court vide its judgement dated 31.05.1984 granted the relief in favour of the applicant. Against this judgement, the matter was carried before the Hon'ble High Court at Delhi in Writ Petition No. 2884/1984 and the same was finally disposed of by the Hon'ble High Court vide order dated 18.02.2003 thereby holding that Award of the learned Tribunal under Section 33-C-2 was totally without jurisdiction and liberty was given to the applicants to approach the appropriate forum under Section 10 of the Act of 1947 to establish their claim. It was, further, mentioned in the said judgement by the Hon'ble High Court that in case respondents take recourse to the aforesaid relief, appropriate Government shall take necessary steps for reference of the dispute raised to the Industrial disputes for its decision at an early date. However, a copy of the judgement has not been annexed by the learned counsel for the applicant with the Original Application, but averment has been made that the same shall be kept ready at the time of hearing of the application. This fact of the pleadings find mentioned in para 4.8 of the Original Application.



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3. In view of the finding given by the Hon'ble High Court, it is not permissible for us to entertain this Original Application. Once the applicant has chosen a particular forum, and obtained the relief which was subsequently declined by the High Court, it is not permissible for him to agitate the matter before this Tribunal. On this ground also the Original Application is liable to be dismissed.

4. As already stated above, since the Delhi High Court has granted liberty to the applicant to invoke Section 10 of the Industrial Tribunals Act and has directed the appropriate Government to make reference in case such dispute is raised by the applicant, the entertaining of this application will amounts to ignoring the finding given by the Hon'ble High Court, which is binding on us and it is not open to challenge in these proceeding. In case, the applicant was of the view that remedy does not lie under the Industrial Dispute Act and matter was required to be agitate before the Central Administrative Tribunal, he should have raised such contentions before the Delhi High Court at the time of hearing of the Writ Petition and obtained appropriate order. Having not done so, this Original Application can not be entertained and is accordingly dismissed.




(M.K. Misra)
Administrative Member


(M.L. Chauhan)
Judicial Member

Regd. A.D. Copy D ordered 15/12/04
along with O/P and Books on 25/12/04
Copy with order copies send to RIDQZ
Milestone 122 to 129 & 16/12/04

Received copy of your order
19/12/04

R-1 to R-3
A.D. received
with signature
R.D.