

I/17
(SH)

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No. 160/2004

Date of order: 10.03.2008

**HON'BLE MR. JUSTICE A.K. YOG, MEMBER (J)
HON'BLE MR. R.R. BHANDARI, MEMBER (A)**

Radheshyam Chitara S/o Sh. Sohan Lal ji Chitara, Aged about 34 years, R/o In front of Manohar Hospital, Tat Market, Inside Siwanchi Gate, Jodhpur (Rajasthan).

Presently working on the post of Head Clerk in the Office of Senior Divisional Operating Manager, North Western Railway, Jodhpur Division, Jodhpur (Rajasthan).

...Applicant.

By Advocate - Shri S.K. Malik.

VERSUS

1. Union of India, through the General Manager, North Western Railway, Jaipur, (Rajasthan).
2. Divisional Railway Manager, North Western Railway, Jodhpur Division, Jodhpur (Rajasthan).
3. Divisional Personnel Officer, North Western Railway, Jodhpur Division, Jodhpur, (Rajasthan).

... Respondents.

By Advocate - Shri Manoj Bhandari.

ORDER

By Justice A.K. Yog, Member (J)

Heard learned counsel for the parties.

Radheshyam Chitara, the applicant, being aggrieved by the restructuring scheme w.e.f. 15.10.2003 promulgated by the respondents (North Western Railway), claims to have filed, representations on December 30, 2003 and May 17, 2004 raising several pleas



The relief sought in the O.A. is as follows:

- "(a). By an appropriate order, writ or direction, if any order is passed against the applicant during the pendency of this Original Applicant the same may be declared illegal and be quashed and set-aside.
- (b) By an appropriate order, writ or direction, respondents may be directed to consider the case of the applicant for promotion to the post of Office Superintendent-II in the chain vacancy against the SC reserve point and if found suitable, he may be promoted w.e.f. the date persons promoted under the Restructuring Scheme with all consequential benefits.
- (c) Any other relief, which is found just and proper, may be passed in favour of the applicant in the interest of justice by the Hon'ble Tribunal."

The respondents have filed counter/reply which is on record.

We do not propose to enter into merits of this case, pleas and the issues raised in the present O.A.

O.A. has not been admitted till date. This O.A. was listed for 'admission' on a several dates but adjourned on the request of the learned counsel for the applicant.

When this O.A. was listed on November 28, 2007, learned counsel representing both sides made a 'joint statement' that similar matter is pending consideration before High Court/ Supreme Court and hearing of O.A. was got postponed. On March 04, 2008, the Tribunal directed this O.A. to be listed along with O.A. No. 05/2006.



While hearing this O.A., learned counsel for the applicant submitted that O.A. No. 05/2006 (listed today along with this O.A.) may be heard separately. Consequently, O.A. No. 05/2006 is being decided separately.



-3-

Admittedly, representation³ of the applicant, submitted before Respondent/Authority, has not been decided (refer to para 4.8 to 4.10 of the O.A.).

Learned counsel for the respondents produced Photostat copies of some orders passed in Civil Appeal No. 6934-6946 of 2005 - **Union of India vs. Pushpa Rani & Ors.** and that of Special Leave to Appeal (Civil) No. 6536/2005 - All India SC/ST Railway Employees Association vs. U.O.I. & Ors. (against the judgement and order dated 03/03/2005 in CWP No. 3182/CAT of 2005 of the High Court of Punjab & Haryana at Chandigarh), to indicate that similar matters are pending before High Court/Apex Court.

In view of the above admitted position, we find that no useful purpose is going to be served by keeping the present O.A. pending.

In a case where identical matter is pending consideration before Higher Court/Apex Court, the matter in hand by subordinate Court need not be deferred and kept pending on that score. On the other hand, it should be decided in accordance with law, ignoring pendency of identical case/s before higher court unless there is an 'interim-order' passed by said Higher Court where matters is said to be pending.



There is nothing on record to show that High Court/Apex Court has stayed the proceedings of this case.





-4-

In view of the above, there is no justification to get defer the hearing of the case.

In the circumstances noted above; particularly that the applicant has filed representation – which is pending, and that the grievance of the Applicant should also be governed by the final decision of the High Court/Supreme Court (rendered in similar matters in future), we direct that the applicant shall also be entitled to the privilege and benefits, if any, of the 'judgement' of the High Court/Supreme Court in similar matters said to be pending as on date. In other words, the Applicant shall not be deprived of his 'reliefs' on the ground that he has failed to approach Court of Law.



Present O.A. is finally disposed of, without entering into merits of the case, subject to the observations made above.

No order as to costs.

R.R. Bhandari
(R.R. Bhandari)
Member (A)

A.K. Yog
(A.K. Yog)
Member (J)

NIK*

R/C
Diary copy
14.03.08

R/C
Diary
14/03/08

Re
S. K. Mallick
Adv
18/3/08

Part II and III destroyed
in my presence on 01/12/14
under the supervision of
section officer (J) as per
order dated 19/8/2014.
Section officer (Records)