

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 119/2008

Jodhpur, this the 4th day of February, 2016

CORAM

Hon'ble Dr. K.B.Suresh, Judicial Member

Daulat Singh Sisodia S/o Sh. Balu Singh Ji Sisodia, Age about 74 years, R/o House No. Jha-6, Bhagat Ki Kothi Extension Scheme, New Pali Road, Jodhpur.

Retired as Senior Loco Inspector in the year of 1992 from the Jodhpur Division, Jodhpur.

.....Applicant

By Advocate: Mr Sanjay Nahar.

Versus

1. The General Manager, North Western Railway, Head Quarter Office, Jaipur.
2. Senior Divisional Railway Manager, North Western Railway, Jodhpur Division, Jodhpur.

.....Respondents

By Advocate : Mr Salil Trivedi.

ORDER (Oral)

Heard.

2. The applicant prays that he may be directed to be given 30% Running Allowance from the year 1973 in accordance with the rule of Running Allowance. He also claims parity with the petitioners in Yogendra Lal & Ors vs Union of India & Ors in OA No. 127/2005 dated

16.11.2016. He also prays that all other retiral benefits such as DCRG etc by adding on 55% and 75% of the basic pay may also be granted.

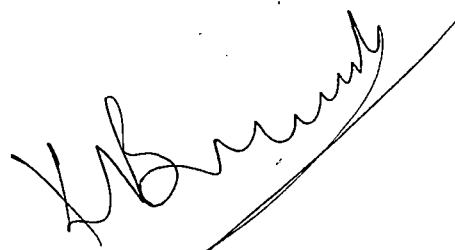
2. It is submitted at the bar that these reliefs have been granted to various persons who had approached the Tribunal at the relevant times. The matter has gone up to Supreme Court and Supreme Court having dismissed the SLP the matter has become concretized. The Ld. Counsel also would say that Principal Bench of the Tribunal has also passed a similar order and thereafter it was taken up to High Court of Delhi wherein it was also allowed.

3. Ld. Counsel for respondents on the other hand would submit that on the basis of the judgment of Hon'ble Apex Court in U.P. Jal Nigam and Another vs Jaswant Singh and Another reported in (2006) 11 SCC 464, it is specifically stipulated that when a person is not vigilant of his rights and acquiesces with the situation, and the acquiescence prejudices, or there is change of position on the part of the party allegedly violating the rights, such person's writ petition cannot be heard after the delay on the ground that same relief should be granted as was granted to persons similarly situated, but who were vigilant of their rights. The Ld. Counsel would say that this kind of new emergence of liability would play havoc on their budget. A matter which could have been taken up in 1973 cannot be expected to be taken up in 2008. At least after 35 years, there must be a finality to an issue. The Hon'ble Apex Court has held that such persons are not eligible even if their on their own eligibility cannot considered to

public policy, it cannot be ignored. As a matter of public policy it should not be defeated also.

4. In A.P. Steel Re-rolling Mill Ltd vs State of Kerala & Ors reported in (2007) 2 SCC 725 the Hon'ble Apex Court held that the benefit of a judgment is not extended to a case automatically. Here the petitioner approached the court after long delay and delay will disentitle him to discretionary relief. A similar situation arises here also, therefore, in view of the Hon'ble Apex Court findings, the Principal Bench's judgment cannot have any effect on the right of the applicant.

5. Thus, a matter which should have been raised in 1973 cannot be allowed to be raised after 35 years of delay in 2008. OA is, therefore, without merit and the same is dismissed. No costs.



[Dr. K.B.Suresh]
Judicial Member