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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

**ORIGINAL APPLICATION NO. 273/2009
JODHPUR: THIS THE 29 TH DAY OF JULY, 2010**

CORAM

**HON'BLE DR. K.B.SURESH, JUDICIAL MEMBER
HON'BLE MR. V .K.KAPOOR, ADMV. MEMBER**

- 1- Narpat Singh S/o Late Shri Hira Lal Ji, aged about 70 years, Resident of Nand Bhawan, Plot No. 686 9th C Road, Sardarpura, Jodhpur, Ex. Diesel Assistant, 1923, Northern Railway, Jodhpur.
- 2- Purshottam Singh S/o Late Shri Guru Dass Singh, aged about 62 years, resident of C/o Sh. Sujan Singh, 40 Sita Ram Nagar, Pal Basni Link Road, Jodhpur, Ex. Fireman A, 2167, Northern Railway, Jodhpur.
- 3- Sumer Mal S/o Late Shri Kundan Mal, aged about 66 years, resident of Charon Ka Chowk, Pachpadra City, Barmer, Ex.Loco Inspector, Northern Railway, Jodhpur.
- 4- Gulam Haider S/o Late Shri Gulam Mohammed, aged about 63 years resident of Agar Chand Fateh Chand Colony, Plot No. 10 13, Loco Gate, Jodhpur, Ex. Goods Driver- 2483, Northern Railway, Jodhpur.
- 5- Iqbal Hussain S/o Late Shri Karim Bux, aged about 62 years, resident of Plot No. 297-G Sector, New Sindhi Tent House, Pratap Nagar, Jodhpur, Ex. Shunter 2482, Northern Railway, Jodhpur.
- 6- Shafi Mohammed S/o Late Shri Azim Khan, aged about 76 years, resident of Flour Mill, Sadar Bazar, Near Masjid, Merta Road, Ex. Goods Driver 1548, Northern Railway, Jodhpur.
- 7- Smt. Rukia Bano Wife of Late Shri Abdul Sattar aged about 70 years, resident of No. 3, Near the Well, Merta Road, Her husband was Ex. Driver 1436, Northern Railway, Jodhpur. Agar Chand Fateh Chand Colony, Plot No. 10 13, Old Loco Gate, Ratanada, Jodhpur.
- 8- Smt. Maqsuda Begam Wife of Late Shri Tahir Hussain, aged about 62 years, resident of Furit Merchant, Neelkanth Road, Falna Pali, her husband was Ex. Firemen A-2316, Northern Railway, Jodhpur.
- 9- Smt. Kunni Devi Wife of Late Shri Girdhari Lal, aged about 65 years, resident of 1, Kh - 5, Pratap Nagar,



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Jodhpur, Ex. Diesel Assistant, S.No. 2056, Northern Railway, Jodhpur.

- 10- Shri Ram Goyal S/o Late Sh. Mansha Ram, Ex. Train Driver, aged about 53 years, under the Loco Fireman, Samdari, presently resident of Near G.S. Ka Bacha Chowk, Near Veer Hanuman Temple, Gulabsagar, Jodhpur.
- 11- Shri Surendra Kumar Goyal S/o Late Shri Mansha Ram (Ex. Train Driver) aged about 48 years, under the Loco Foreman Samdari (Jodhpur Division), presently resident of 2/1709, Kuri Bhagtasni Housing Board, Jodhpur.
- 12- Sh. Kailash Singh S/o Late Shri Dhokal Chand, S.No. 1904, Ex. DSL Assistant aged about 42 years, under the Loco Foreman, Merta Road, presently resident of Maliyonka Mohalla, Sojati Gate, Merta City.
- 13- Sumer Singh S/o Late Shri Dhokal Chand, S.No. 1904, aged about 39 years, Ex. DSL Assistant, under the Loco Foreman, Merta Road, presently resident of Maliyonka Mohalla, Sojati Gate, Merta City.

All the applicants are being represented through Shri Narpat Singh S/o Late Shri Hiralal, aged about 70 years, resident of Nand Bhawan, Plot No. 686, 9th C Road, Sardarpura, Jodhpur, Ex. Diesel Assistant - 1923, Northern Railway, Jodhpur.

.....Applicants

Versus

1. The Union of India through the General Manager, North Western Railway, Headquarters Office, Jaipur.
2. The Divisional Railway Manager, North Western Railway, Divisional Office, Jodhpur.
3. The Senior Divisional Personnel Officer, North Western Railway, Divisional Office, Jodhpur.
4. The Senior Divisional Mechanical Engineer, North Western Railway, Divisional Office, Jodhpur.
5. The Senior Divisional Finance Manager, North Western Railway, Divisional Office, Jodhpur.

.....Respondents.

Present :

Mr. N.K. Khandelwal, Advocate, representing applicant, present.

Mr. Manoj Bhandari, Advocate, representing respondents, present.



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PER DR. K.B. SURESH, JUDICIAL MEMBER :

The applicants claim re-fixation of their Pay and in consequences thereof, to refund the amount of recovery made from the applicants and accordingly pay Pension to them. They have thus requested for full implementation of the orders of the Hon'ble Apex Court in *Union of India & Ors. Vs. R.Raddeppa & Anr.* dated 5th August, 1993 and *Union of India & Ors. Vs. Prabhu Dayal Anr.* case dated 17th April, 2009 to be made applicable to all of them.

2- The respondents' would urge that the decision cited above, may not be applicable in this case as the ratio is decided in favour of another and not the present applicants. But, the applicants would submit the decision of the Hon'ble Supreme Court in the case of *State of Karnataka & Ors. Vs. C. Lalitha* reported in 2006 (2) SCC 747, wherein, it was stated that all persons similarly situated should be treated similarly irrespective of the fact that only one person has approached the Court. The other ground raised by the respondents' is that there is gross delay and laches on the part of the applicants, as they claimed that the cause of action had arisen in 1993. But, then, the Hon'ble Apex Court had held that in a continuing cause, the issue of 'delay and limitation' cannot be attracted. The matter relates to 'Pay Fixation' and as such, is a continuing cause and also, the matter was under agitation in legal forums at the behest of the respondents themselves and, therefore, they are estopped from claiming against the cause that they themselves have germinated. Therefore, we have no hesitation to hold that the two Apex Court judgements, referred to above, are equally applicable to the applicants and the order No. 729/E/II'C'/Loco/PD-SL /09 /236 dated 29th September, 2009 (Annex.A/1), issued by the Senior Divisional, Personnel Officer, North Western Railway, Jodhpur, is hereby quashed and set-aside and the

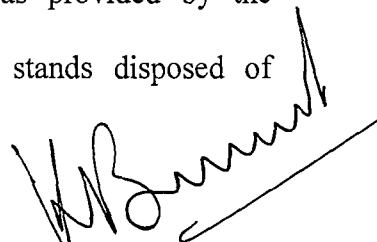


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respondents are directed to Re-fix the Pay of all the applicants in accordance with the Apex Court judgments cited above and allow all the consequences flowing thereto, to the applicants as provided by the Hon'ble Apex Court. The O.A. is allowed and stands disposed of accordingly. No costs.


(V.K. Kapoor)
AM


(Dr. K.B. Suresh)
JM

jrm



दिनांक 17/12/15 के आदेशानुसार
मेरी उपस्थिति में दिनांक 11/2/16
को भाग-II के III चरण निर्धारित।

अनुयायक अधिकारी
केंद्रीय प्रशासनिक अधिकरण
जोधपुर न्यायपीठ, जोधपुर