

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

OA No. 290/00424/2016

Date of decision- 27.09.2016

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MS. PRAVEEN MAHAJAN, MEMBER (A)**

...

Jeevan Son of Mangla Ram Ji,

Age 75 years, Resident of Near Mahadevi Mandir, Shri.
Dungargarh, District Bikaner.

...APPLICANT

BY ADVOCATE : Mr. Arjun Purohit.

VERSUS

1. Union of India,
Through General Manager,
Northern Western Railway,
Jaipur.
2. Divisional Railway Manager,
(Personnel) Northern Western Railway,
Bikaner.
3. Station Superintendent,
Northern Western Railway,
Lalgarh Junction, Bikaner.

RESPONDENTS

ORDER (ORAL)

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J):-

The present O.A has been filed under Section 19 of the Administrative Tribunals Act, 1985, where the applicant has sought following relief:-

"8. It is, therefore, most respectfully prayed that the Original Application filed by the applicant may kindly be allowed with cost, the respondents may kindly be directed to consider and finalize the payment of due salary for 28 months, payment of Death Cum Retirement Gratuity be made immediately, pension benefits may be revised accordingly while allowing the benefit of

annual grade increments to the applicant and further he may also be provided copy of the report of the medical board, relying upon which, he was retired by the department."

2. On the commencement of hearing, learned counsel for the applicant submitted that before approaching the court, the applicant served a legal notice dated 12.03.2015 (Annexure A-2) upon respondents for considering his case for revision of pension, payment of due salary and payment of DCRG but despite the lapse of six months time, the respondents have not taken any view on pending legal notice. Counsel for the applicant made a statement at the bar that the applicant will be satisfied if a direction is given to the competent authority amongst the respondents to take a final view on the pending legal notice in accordance with rules, in a time bound manner.

3. For the order which we propose to pass there is no need to issue any notice to the respondents and call for their reply. However, Sh. Vinay Jain, Standing Counsel for Railways, who is having advance notice puts in appearance on behalf of the respondents and does not object to the disposal of the O.A in the requested manner. He prayed that the authorities may be granted sufficient time to take a view on pending notice.

4. It is settled proposition of law that when a legal notice is sent by an employee for claiming his right, the claim has to be considered objectively by a speaking order. In this context, the Hon'ble Supreme Court issued directions to the Chief Secretaries of State of Punjab and State of Haryana as well as to the Advisor of UT, Chandigarh in a case titled **Satbir Singh Versus State of Haryana** reported as 2002 (2) SCT, 354. The said directions are prescribing the manner in which State should react and respond to the legal notice, which are reproduced hereunder:-

"18. Further, we are of the considered view that the State must react and respond to a legal notice/representation served by a person, particularly its employee, within a reasonable time. There are two obvious advantages of such action. Firstly the employee would know how and for what reasons he is being denied the benefit/relief, and secondly, the reasoned version of the State would be on judicial record before the Courts for its judicial scrutiny at the very initial hearing. We must notice with appreciation that the learned Advocate General, Haryana, not only supported the issuance of such directions but also brought to the notice of the Court that the Advocate General's office had already taken up the matter with the Government and the Government is expected to deal with the same effectively and expeditiously."

19. Be that as it may, particularly in the afore-referred premises, we still feel that it is the bounden duty of the Court to issue the following directions to the State in the larger public interest and for proper administration of justice: -

(i) Wherever the right of the parties have been settled by a judgment of the Court, the State has taken all remedies available to it in law against the judgment even upto the highest Court of the land and the judgments has attained finality, then the State must accept the judgment and implement it in its true spirit and command. There is implicit obligation on the part of the State to grant same relief to other members of the cadre whose claim was based upon identical facts and points of law.

(ii) The State Government shall as expeditiously as possible in any case not later than four months re-act and respond to a legal notice/representation served upon it by any of its employees in redressal of his grievance/grant of relief, which has been granted to his co-employee similarly situated, in furtherance to the judgment of the Court unless for reasons to be indicated in the reply, the State feels compelled to deny such relief. Needless to point out that denial must neither be evasive nor intended to circumvent the orders of the Court.

(iii) in the event such an employee is compelled to approach the Court of law, whereupon the court awards interest and/or costs while allowing such a petition, then the expenditure incurred by the State including the costs/interests paid in furtherance to the orders of the Court should be recovered from the erring officer(s).

(iv) The concerned quarters of the Government are expected to work out the details in furtherance to the above directions and issue pervasive but definite instructions to all its departments forthwith to ensure compliance."

5. Considering the ad-idem between the parties coupled with fact that once a legal notice is pending with respondents and they are bound to take a view thereon, the Original Application is disposed of with a direction to the Competent Authority amongst the respondents to take a view on the legal notice aforesaid by passing a speaking and

reasoned order in accordance with law and rules .The above exercise be carried out within a period of two months from the date of receipt of a certified copy of this order, under intimation to the applicant.

6. No costs.


(PRAVEEN MAHAJAN)
MEMBER (A)


(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 27.09.2016

Place: Jodhpur

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copy received
for
ARTS Institute
August 10-16

R/C
Ajani
20/10/18