

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

ORIGINAL APPLICATION NO: 449/03

this, the 12 th day of September 2003.

HON. SMT. MEERA CHHIBBER MEMBER(J)

1. Bikram Singh aged about 65 years s/o Sri Mohar Singh R/o B-16/C, LDA Colony, Kanpur Road, Lucknow.
2. R.K. Kain aged about 65 years R/o L-72, Sector 'E' LDA Colony, Kanpur Road, Lucknow.
3. P.N. Lal aged about 67 years R/o 22/156, Indira Nagar Lucknow.
4. O.P. Kapoor aged about 72 years R/o 162/1 Chandra Nagar, Alambagh, Lucknow.
5. R.A. Mauriya aged about 68 years R/o 269/256, Sohan Lal Lane Birhana, Lucknow.

....Applicants.

BY ADVOCATE SHRI HARI RAM.

VERSUS

1. Union of India to the General Manager, Northern Railway, Bapoda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.

....Respondents.

BY ADVOCATE SHRI N.K. AGARWAL.

ORDER (ORAL)

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BY SMT. MEERA CHHIBBER MEMBER(J)

I on the basis of - 2

This O.A. has been filed by five applicants ~~against the~~ order passed by the Controlling Authority under payment of Gratuity Act, Yamunanagar in application no. 2 of 1990 wherein, it was held that payment of gratuity is to be paid after including Dearness Allowance in the emoluments at the time of retirement of ~~therein~~ ~~passed~~ the applicant. The said order was ~~according to the applicant~~ after determining the wages as defined in (Section 2 (s) of the ACT) the Payment of Gratuity Act, 1972. It is submitted by the applicants' counsel that the said order was challenged by the Railway Administration before the Chandigarh Bench by way of filing O.A. NO. 1605/91 in the case of Union of India Vs. Kulwant Singh, but the same was rejected as the matter was connected in O.A. NO: 1686/91 in the case of Union of India Vs. Pritam Singh. The Railway Administration being aggrieved with the order of the Judgement of the CAT Chandigarh, filed further ~~an~~ ~~and~~ appeal before the Hon'ble Supreme Court, but the said appeal was also rejected vide order dated 13.2.2003.

2. It is submitted by the applicants' counsel that this ~~case~~ ^{affair} ~~action~~ was decided ~~by~~ the Supreme Court, they gave representation to the DRM Northern Railway, Lucknow with the request to fix their ~~also~~ gratuity in accordance with the orders passed by the Controlling Authority, in the above cited case. The grievance of the applicants is that till date, respondents ~~not~~ have decided their ~~case~~ ^{have}.

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representation, therefore, they have, no other option, but to file the present O.A.

3. Counsel for the respondents has taken a preliminary objection to the maintainability of the O.A. itself, on the ground that though as per averment made by the applicants in this case they had retired in the years 1991, 94, 91, 93, 93, but in the representation which they have annexed with this ~~read as~~ O.A. ~~is~~ subject ~~is~~ ^{revision} of the DCRG, paid to pensioners retired between 1.1.86 to 31.12.95. Counsel for the respondents ~~has~~ submitted that if, applicant has any grievance in his personal capacity, that can be looked into ~~by~~ ^{if} the Tribunal ~~as~~ public interest, litigation is not maintainable in the Tribunal.

4. Persual of the representation shows as ~~an~~ applicant ^{if} wants this benefit for all the other pensioners as well. He therefore submitted that this type of representation is not sustainable, and if applicant has any valid grievance, he should file proper representation giving all the details ^{or} alongwith orders which he is relying to the appropriate authority, so that it may be considered in accordance with law.

5. I have heard both the counsel and seen the representation also as filed by Shri Bikram Singh in this O.A. I ~~an~~ agree with the respondents' counsel that applicant has no right

to claim ~~the~~ benefit for all the pensioners who retired between 1.1.86 to. 31.12.95. There is nothing on record to suggest that others have authorised him to take ~~an~~ ^{the} issue with ~~this~~ the DRM, nor he ~~has~~ stated that he is the authorised person. Therefore, the representation ~~has~~ annexed ~~to~~ ^{with} the O.A. is not a proper representation and I do not think that in the absence of proper representation to the authorities, there is any need to interfere in the present case.

6. Since, the issue which is being raised by the applicant, ~~is~~ ⁱⁿ ~~can~~ be required to be considered by the authorities at the first instance after verifying the relevant orders as relied by the applicant. I think, ends of justice would be met if, applicants are given liberty to file fresh representation to the authorities by giving all the details alongwith the relevant orders which they wish to rely upon. The said representation shall be given within two weeks from the date of receipt of copy of this order. In case, applicants give proper representation to the authorities, they shall consider the same and pass appropriate orders thereon inaccordance with law within a period of 4 months from the date of receipt of copy of this order.

7. The O.A. is accordingly disposed of as above without any order as to costs.



MEMBER(J) I

LUCKNOW: DATED: 12.9.2003.

V.