

Central Administrative Tribunal Lucknow Bench Lucknow

M.P. No. 2173/2007 In Dy. No. 2138/2007.

In

Original Application No: 468/7

This, the 6th day of November, 2007

Hon'ble Mr. M. Kanthaiah Member (J)

1. Ashok Kumar aged about 48 years, son of Jagdev Prasad, R/o LD=61/F Running Shed Railway Colony, Alambagh, Lucknow.
2. Smt. Jaysree Hussain aged about 49 years, W/o Sri Inayat Hussain, R/o Faqrudding Mohd. Ali & Co. 31 Latoush Road, Lucknow.
3. Parashuram aged about 47 years, son of Late Baijnath, R/o Sector C- 1 SS-8 LDA Colony Kanpur Road, Lucknow.
4. Shiv Prakash Srivastava aged about 48 years, son of Late H.S.Srivastava, R/o B/199 Hind Nagar LDA Colony Kanpur road, Lucknow.
5. Mohd. Afroz aged about 44 years, S/o Sri Rayees Ali, R/o 41/399 Dr. Sufai Ahmaid Road, Lucknow.
6. Smt. Anita Chowdhury aged about 45 years, W/o Sri Ashim Kumar Chowdhury, R/o 19/244 Indira Nagar, Lucknow.
7. Smt. Renu Bala Tewari agd about 44 years, W/o Sri M.K. Misra, R/o L-1349 Sector I LDA Colony Kanpur Roa, Lucknow.
8. Doodh Nath aged about 47 years, S/o Late B.D. Srivastava R/o SS-1149 Sector HL. D.A. Colony Kanpur Road, Lucknow.

Applicants.

By Advocate Shri Vijay Dixit.

Versus

1. Secretary, Railway Board, Rail Bhawan, New Delhi.

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2. Deputy Director Establishment (Welfare), Railway Board, Rail Bhawan, New Delhi.
3. Division Railway Manager, Northern Railway, Hazratganj, Lucknow.

Respondents.

By Advocate Shri Praveen Kumar for Shri M.K. Singh.

Order

By Hon'ble Mr. M. Kanthaiah, Member (J)

The applicants have filed an application under Section 4 (5)

(a) of AT ACT to permit them to prosecute the application by way of joint application stating that their claim is one and the same.

2. Since the cause of action is one and the same, they are justified in seeking the said relief hence joint application is allowed and office is directed to give regular O.A. No.

3. The applicants have filed this Original Application to issue directions to the respondents to extend the benefit of first class privilege passes as provided to the similar situated persons of the same panel of employment notice No. 1/80-81 and 1/82 as well as of 1/82-83.

4. The respondents have filed preliminary objection stating that the claim of the applicants is barred by limitation. Since the circular in the year, 1987, the applicants ought to have approached the respondents immediately in the year 1987 itself and claiming such relief at this stage, is barred by limitation and also stated that



the representation dated August 2007 is only in order to file O.A. and thus, oppose the claim of the applicants.

5. The applicants have filed reply to the preliminary objection of the respondents stating that the cause of action accrued to them on 16.5.2007 when the persons selected in the same selection and ² ~~now~~ place below the select list as well as in the seniority list have been allowed such relief of privilege first class passes by the respondents and immediately when they came to know about the same, they made representation and thereafter, filed this O.A.. Thus denied the preliminary objection that the claim of the applicants is barred by limitation.

6. When the matter is coming for hearing at admission stage, both sides advocates argued the matter for final disposal at admission stage only by taking their respective pleadings in main O.A. itself.

7. Heard both sides.

8. The point for consideration is whether the applicants are entitled for the relief as claimed for.

9. The admitted facts of the case are that the applicant No. 1 to 7 appeared for the written examination held on 6.2.1983, whereas applicant No. 8 appeared on 28.2.82 as per the advertisement of 1980 and 1981 respectively and they were declared as successful candidate for the post of Ticket Collector and subsequently appointment orders were issued after completion of training in the year 1990 and since then they have been working in the respondents department.

10. It is the case of the applicants that their juniors in the merit list of employment as well as persons ^{are in} ~~are~~ subsequent employment

notice are allowed the first class passes, where as applicants have discriminated and as such they made representation before the respondents authorities raising the grievance that they should be allowed the benefit of entitlement of first class passes as has been provided to similarly situated employees as well as employees of same batch as well as their juniors. It is also the contention of the applicants that similarly situated employees when filed original application before the Principal Bench of Central Administrative Tribunal in O.A 114/2003, and the same was allowed. Annexure 8 is the copy of judgment dated 16.8.2004 which shows that the privilege of first class passes has also been extended to the candidate of advertisement of No. 1/80-81 and 1/82 as well as of 1/82-83. Through some of the employees when subsequently made similar claim in this Tribunal in O.A. No. 604/05, and O.A. 495/2006 direction was issued to the respondents authorities to consider the case of the applicants who are similarly ^{situated,} for extending such facilities of privilege passes. Annexure 10 and Annexure 12 are copies of such judgments.

11. It is the case of the applicants that they have been appointed in pursuance of the advertisement No. ^{1/80-81 - 1/82} ~~1/80-81~~ and they are entitled for grant of privilege passes and in support of it they have relied on the decision of Principal Bench in O.A.114/2003 and also orders of this Tribunal in O.A. 604/2005 (Annexure 10) and 495/2006 (annexure 12. It is not in dispute that the applicants also ^{made} ~~made~~ their representation claiming to extend such facilities of first class privilege passes basing on the directions given by this Tribunal in earlier O.As in which, the applicants are similarly situated persons

of others applicants. The recitals of Annexure 10 and 12 reveals that those O.As have been disposed of by this Tribunal with a direction to the respondents authorities for considering the pending representation of the applicants and pass reasoned order as per rules by taking into consideration the judgment of Central Administrative Tribunal, Principal Bench in O.A. 114/2003 dated 16.8.2004. When it is the case of the applicant that they are similarly situated persons and further they say that the applicants in earlier O.As covered under Annexure 10 and 11 are juniors to them, there is no problem for considering the claim of these applicants for issuance of First Class Privilege Passes by the respondents and pass orders as per rules.

12. In view of the above circumstances, this O.A. is disposed of with a direction to the respondents authorities to consider the pending representation of the applicants dated and 5.7.2007 (Annexure 14) by taking into consideration, the judgments in O.A. 114/2003 on the file of Principal Bench (Annexure-8) and also O.A. 604/2005 (Annexure 10) and O.A. 495/2004 (Annexure 12) on the file of this Tribunal and pass reasoned order as per rules and regulations within a period of three months from the date of the receipt of a certified copy of this order. No costs.


(M. Kanthaiah)

Member (J)

06.11.2007