

**CENTRAL ADMINISTRITIVE TRIBUNAL
LUCKNOW BENCH**

O.A.No.122/2006

This the 8th day of May 2007

HON'BLE SHRI A.K. SINGH, MEMBER (A)
HON'BLE SHRI M. KANTHAIAH, MEMBER (J)

1. Pankaj Verma aged about 23 years S/o Late Hanuman R/o 585/Ka/2, Kanosi, Manak Nagar, Lucknow.
2. Sant Prasad about 57 years, S/o Late Bhagwan Das R/o 551/Ka/347, Sanjay Gandhi Nagar, Alambagh, Lucknow.
3. Shri Ram aged about 54 years S/o Ram Narain Vikram Nagarm, Manak Nagar, Lucknow.
4. Raj Kishore aged about 35 years S/o Shri Kalloo Vill. Deopur, Post Rajaji Puram, H. No. 548/86, Talkatora, Lucknow.
5. Ram Kripal aged about 58 years, S/o Shital Prasad R/o B-2315, Manak Nagar, Lucknow.

... Applicant.

By Advocate:-Shri M.A. Siddiqui.

Versus.

1. The Union of India through the Secretary Railway Board, Ministry of Railways, Rail Bhawan, New Delhi.
2. The Director General (R.D.S.O.), Manak Nagar, Lucknow.
3. The Director (Civil Engineering) R.D.S.O., Manak Nagar, Lucknow.
4. The Town Engineer, R.D.S.O., Lucknow.
5. The D.R.M., Northern Raiway, Hazratganj, Lucknow.

... Respondents.

By Advocate:-Shri S. Lawania.

ORDER

BY HON'BLE SHRI M. KANTHAIAH, MEMBER (J)

The applicants who have been working as Valveman in R.D.S.O., filed this O.A.

against the respondents for not extending the benefits of scale of 260-400 / 950-1500 / 3050-4590 which is being paid to the Valveman in NR Diesel Loco Motive, Varanasi and other Zonal Railways. They also contents that further respondents have denied their such claim which is against the principle of equal work and equal pay and issued a Memorandum dt. 15.11.1993 (Annexure-1) rejecting their legitimate right. The applicants also filed MA. 122/06 to condone the delay in filing OA stating that the delay was neither deliberate nor with other intention.

2. The respondents have raised their objection on the maintainability of the OA., by filing Objections for condoning delay in filing OA. Stating that the applicants have not properly explained the delay in filing O.A. and thus prayed to reject the claim of the applicants.

3. Heard both sides.

4. The point for consideration is whether the claim of the applicants is maintainable or not.

5. The admitted fact of the case are that in the year 1992, some of the employees including applicants No. 2 3 and 5 have filed OA. 137/1992 on the file of this Tribunal for grant of pay scales of Volveman of DLW, Varanasi and the same was disposed of on 27.1.1993 with a directions to the respondents as follows:

“ Accordingly the respondents are directed to consider the case of the applicants as they have also made representation in this behalf, as to whether the relevant criteria are the same and duties, functions and responsibilities are not similar , if that be so, they may also considered their cases granting the same pay scale and all the emoluments, as has been done in the case of others.”

6. Annexure-5 is the copy of order in O.A.No.137/1992 Dt. 27.01.1993.

7. In pursuance of the directions in OA 137/1992, the respondent authorities after considering the claim and representations of the applicants in the said O.A. rejected their request and issued memorandum to that extent under Annexure-1 dt. 15.11.1993 . Thereafter the applicant have filed this OA rejecting their claim basing on the report of one man committee, which is against the principal of equal pay for equal work stated that their duties and functions are similar with that Valveman working in DLW, Varanasi and other Zonal Railways.

8. By way of this IOA the applicant have made claim.

to quash the impugned order dated 15.11.1993 (Annexure-1) and also to

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directing the respondents to grant similar pay scales of Wail-man working in DLW, Varnan and Zonal Railways in the scale of 260-400/950-1500/3550-4590.

9. The respondents have taken main objection by way of preliminary objection on the ground that the claim of the applicants is barred by limitation and also barred under the principle of res-judicata and under order 2 Rule 2 of CPC.

10. From the Judgment in OA 137/1992 (Annexure-5) it is clear that the applicant have made similar claims in the year 1992 claiming equal pay similar to that of other Valveman of DLW and other Zonal Railways. When there was direction to the respondents to consider such clam of the applicants, the respondent have passed orders by issuing memorandum on 12.11.1993 (Annexure-1) under which they did not agree the claim of the applicants. Admittedly, the applicant have not questioned the said rejection of their claim immediately and filed the present O.A. on 12.12.2005 i.e. after more then 12 years.

11. Though the applicants have filed the petition to condone the delay in filing OA, they have not given and justified reason and circumstances for causing such delay in questioning the impugned rejection order dt.15.11.1992, without giving any reasonable and justified ground they filed a petition to condone the delay without any ~~any~~ proper explanation.

12. The applicants contains that when their claim is for equal pay for equal work the principle of delay and laches would not be attracted and relied on the following decisions.

(i). 2005 SCC (L&S) Page -200

Divisoanl Manager Plantation Division Andaman and Nicobar Islands Vs. Munnu Barrick and Othes.

Stating serious question of law was raised which require adjudication in such case s condonation of delay is required.

(ii). 2003 (1) ATJ Gujarat High Court Page 641

A.K. Solanki Vs. State of Gujarat

that that the principle of delay and laches or acquiescence would not be attracted in case of of equal pay for equal work.

(iii). 2003 (3) ATJ Page-366 CAT, Chandigarh Bench

Pushpinder Kumar Sharma Vs. Union of India.

Plea of limitation can not be raised for denying his legitimate claim for promotion.

(IV). 2006 (1) ATJ Page 121 Delhi High Court

Satyavir Singh Vs. Delhi Transport Corporation.

Pensionary benefits- delay-grievance relating to payment of dues like salary substances allowances are recurring in nature – proper course is to adjudicate the matter on merits but not on ground of limitation or on the ground of delay in approaching the court.

(v). 2003 (1) ALJ page 558 CAT, Principal Bench

Samyukta Arjuna Vs. Union of India

Article 14 and 16 – seniority-limitation-where counting of seniority is in breach of article 14 and 16 of the Constitution and it is is a continuing wrong and as such law of

limitation does not apply.

In the instant case, no serious question of law is required for adjudication, to condone the delay without taking into the context. Hence citation relating to D.M.. Plantation Division, Andaman and Nicobar Islands case is not helpful to the applicant.

Similarly it is neither the case of promotion, seniority nor pensionary benefits, to overrule objection of limitation and as such the citations in the case of Pushpinder Kumar Sharma , Satyavir Singh and Samyukta Arjuna are not applicable to this case on hand.

13.The learned counsel for the respondents argued that the decision relied by the applicants are not at all applicable to the facts of the present case on hand and relied on the following latest judgment of the Apex Court stating that delay and laches are relevant factors and the employees claiming pay parity after a long period of 17 years is not at all entitled.

(1). 2007 AIR SCW Page 1705

New Delhi Municipal Vs. Pan Singh and Others.

14.In the instant case also the applicants are claiming pay parity with that of other Valveman in NR Diesel Loco Motive, Varanasi and other Zonal Railways, which is after more than 12 years of rejection of such claim of the applicants. In view of such judgment of the Apex Court, the decision of A.K. Solanki of Gujarat High Court is not helpful to the applicant.

15.From the above discussion it is clear that the applicant who have approached the Tribunal after more than 12 years of rejection of their claim of pay parity with that of Valveman in NR, Diesel Loco Motive, Varanasi and other Zonal Railways clearly shows that their claim is barred by limitation and they have not given proper and justified reasons in causing delay in filing this OA at this belated stage. The latest judgment of Apex Court in the case of New Delhi Municipal Corporation clearly supported the arguments of the respondents that the claim of the employees in respect of pay parity of after a long time is not at all maintainable and thus liable for rejection.

16.The applicants have also filed OA 137/1992 with similar claim of this OA. claiming grant of pay scale to them similar with that other Valveman in NR, Diesel Loco Motive, Varanasi and other Zonal Railways and as such the principle of res-judicata as raised by the respondents are ^{ex}actly applicable to the facts of this case and even on that ground also the O.A. is not at all maintainable.

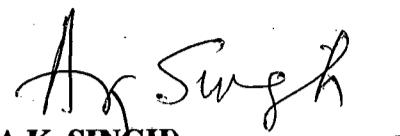
17.In view of the above circumstances the claim of the applicant s is barred by limitation and also barred by the principle of res-judicata and as such O.A. is not at all

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maintainable and thus liable for rejection at this stage.

18. In the result O.A. is rejected on the ground of limitation and on the ground of principle for res-judicata. But in the circumstance no costs are awarded.

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(M. KANTHAIAH)
MEMBER (J) 8.5.07


(A.K. SINGH)
MEMBER (A)

/AMIT/

copy of order
dated 8.5.2007
Dated
11.5.2007