

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH:
J A I P U R.

O.A.139/95

Date of order: 6.11.1996

Shri Nathi Lal & Another : Applicants

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. Chief Personnel Officer, Western Railway, Churchgate, Bombay.
3. Divisional Railway Manager, Western Railway, Jaipur Division, Jaipur.

: Respondents

Mr. Shiv Kumar, counsel for the applicants
Mr. U.D.Sharma, counsel for the respondents

CORAM:

HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE SHRI RATAN PRAKASH: MEMBER (JUDICIAL))

Applicants Shri Nathi Lal and Smt. Pushpa Saini have filed this application under Section 19 of the Administrative Tribunals Act, 1985 to seek a direction against the respondents to make them the payment of with-held amount of D.C.R.G. as indicated in Annexure A-2 dated 11.3.1994 alongwith interest at the market rate for the period from the date of with-holding of the payments.

2. Facts which are not in dispute between the parties are that applicant No.1 Shri Nathi Lal was appointed in Railway as Apprentice Fireman at Bandikui on 25.8.1953 and retired from service on superannuation

on 31.5.1991 while he was working on the post of Loco Foreman. Applicant No.2 is the wife of late Shri O.P.Saini who was also recruited as Apprentice Fireman in 1956 and while he was working as Safety Counciller in Jaipur Division of Western Railway, he died on 28.4.1991. Consequent upon the Railway Board letter dated 16.9.1988 the stepping up benefits were given to both the applicants. Subsequently the Railway Board issued a clarification changing the basis of grant of stepping up of the pay of such employees by putting a condition that the said benefits can be given if both juniors and seniors belong to the same cadre and post in the same seniority unit. In view of above instructions of the Railway Board an amount of Rs. 40,000/- each being the amount of D.C.R.G. payable to the applicants and a number of other similarly situated employees was with-held. Other similarly situated employees approached the Tribunal and filed separate OAs numbered as OA 122/91 G.N.S. Rawat & Ors Vs. Union of India and others, which was disposed of vide Annexure A-1 dated 15.7.1993. The respondents in compliance of the directions in the above OA 122/91 issued order dated 27.9.1994 (Annx.A-4) and all similarly placed individuals who have approached the Tribunal were granted the relief and the amount of deposit in respect of each was released. However, the amount which was in deposit on account of the applicants was not released on the ground that they were not party in the earlier O.A. They approached the respondents but with no result and hence this O.A.

3. Respondents have opposed this application by filing a written reply to which no rejoinder has been filed. The stand of the respondents has been that since the stepping up has been erroneous and it was desired to be rectified vide Railway Board Circular dated 14.5.1993 (Annx.R-3), hence the applicants are not entitled to any benefit as prayed for in this O.A.

4. I have heard the learned counsel for the applicants Shri Shiv Kumar as also the learned counsel for the respondents Shri U.D. Sharma and examined the record in great detail.

5. At the outset, it may be stated that the O.As filed by these applicants being No.286/96 and 289/96 respectively wherein they had sought the quashing of the impugned order dated 1-4/5-1996 by which the respondents had proposed to recover the amount being Rs. 1,23,081/- and Rs. 22,453/- respectively, were disposed of vide order dated 30.8.1996 and the said order was quashed on the basis of the law laid down by Hon'ble the Supreme Court in the case of Sahib Ram Vs. State of Haryana and others, 1995 SCC (L&S) 248 and State of Orissa and others Vs. Adwait Charan Mohanthy and others, 1995 SCC (L&S) 522.

6. The only controversy which now remains for solution is whether the respondents are within their right to with-hold the amount of the deposit

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indicated in Annexure A-4 in respect of the applicants when they have already released the said nature of amount to the other similarly situated/employed persons?

7. The only ground on the basis of which the respondents have not released the aforesaid amount of deposit in respect of the applicants is that they were not party to the OA filed by the similarly situated individuals being OA No.122/91 in the case of G.M.S. Rawat and others. It is settled position of law that when the benefit is being granted to similarly situated individual, it cannot be simply held back on the plea that they were not parties to the earlier petition. If it is allowed to sustain, it would result in discrimination which is violative of the constitutional right conferred under Article 14 read with Article 16 of the Constitution of India. Since there is no other ground, it was not within the competence of the respondents to withhold the amount of deposit in the case of the applicants as well. The issue raised in this O.A. is, therefore, answered in the negative.

8. Consequently the respondents are directed to to the applicants release the amount of Rs. 40,000/- each in deposit and as indicated in Annexure A-4 dated 27.9.1994 from the date of receipt of a copy of this order within a period of two months/- Regarding the claim made by the applicants of payment of interest, it is suffice to mention that the applicants themselves

are equally responsible for not approaching the Tribunal alongwith the other similarly situated individuals who had filed OA No.122/91. From the record it is not clear whether the employees in the earlier OA were granted any interest. However, in the interest of justice, I feel that the applicants can be paid an interest @ 10% p.a. from one year preceding to the date of filing/presentation of this O.A. viz., 21.2.1995.

9. The O.A. is disposed of accordingly with no order as to costs.


(RATAN PRAKASH)
MEMBER (J)