

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.55/96

Date of order: 23/11/2010

1. Prabhu Dayal, S/o Mool Chand Vyas, Sr.Goods Driver
2. Kamruddin, S/o Sh.Alladin, Sr.Goods Driver.
3. Amar Singh, S/o Shri G.Singh, Goods Driver
4. Kalash Chand, S/o Ram Sahai, Goods Driver

All are employed in the O/o Loco Foreman, Loco Shed, Phulera.

...Applicants.

Vs.

1. The Union of India through General Manager, Western Railway, Church Gate, Mumbai.
2. Divisional Railway Manager, W.Rly, Jaipur Divn, Jaipur.
3. Sr.Divisional Mechanical Engineer (E), W.Rly, Jaipur.
4. Shri Sher Singh 'D', Passenger Driver, Loco Shed, W.Rly, Jaipur.

...Respondents.

Mr.Shiv Kumar - Counsel for applicants.

Mr.K.S.Sharma - Counsel for respondents.

O.A.No.169/96

1. Prabhu Dayal, S/o Sh.Mool Chandji Vyas, R/o Bai Babli Ki Chhatari, Sindhi Colony, Nahri ka Naka, Jaipur.
2. Kamruddin D, S/o Deen Mohammed, R/o Hassanpura A, Jaipur.
3. Amar Singh, S/o Gurudatt Singhji, R/o A.En Colony, Phulera, Jaipur
4. Kailash Chand R, S/o Shri Ram Sahaiji, R/o Malakheda Gate, Alwar.

All are working as Driver, W.Rly, Jaipur Divn, Phulera.

...Applicants

Vs.

1. The Union of India through General Manager, Western Railway, Church Gate, Mumbai.
2. Divisional Railway Manager, W.Rly, Jaipur Divn, Jaipur.
3. Sr.Divisional Mechanical Engineer, W.Rly, Jaipur.
4. Shri Moti Singh, S/o Shri Balia, Driver, W.Rly, Phulera
5. Shri Sher Singh S/o Sh.Diggaram, Driver, C/o Stn. Supdt. W.Rly, Phulera, Jaipur.

...Respondents.

Mr.P.P.Mathur - Counsel for applicant

Mr.K.S.Sharma - Counsel for respondents

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.Gopal Singh, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

Both these O.As are filed by the applicants in which facts are similar and the question of law involved are common, therefore, we decide the O.A by a single order.

2. In this O.A filed under Sec.19 of the Administrative Tribunals Act, 1985, the applicants are claiming seniority, promotion and fixation of pay at par with next junior as a result of promotion to the post of Fireman-A, scale Rs.290-350 w.e.f. 1.6.81 in view of the orders of this Tribunal dated 22.4.94.

3. The case of the applicants are that they were filed O.A No.514/92 and 515/92 which were partly allowed and the respondents were directed to give benefit of upgradation scale of Rs.290-350 to the applicants w.e.f. 1.6.81 with all consequential benefits.

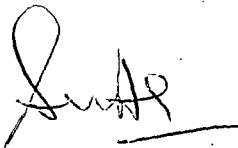
4. In pursuance of the order passed in the aforesaid O.As, the respondents issued order to give scale Rs.290-350 to the applicants w.e.f. 1.6.81 but their seniority was not determined from the date of entry in the grade. Applicants Kailash Chand & Amar Singh, filed Contempt Petition which was rejected by this Tribunal on the ground that the directions given by the Tribunal in O.A No.514/92 have complied with and there was no direction for determination of seniority. It is also stated that Shri Sher Singh and Moti Singh were placed above the applicants in the selection list but the respondents were required to issue the revised seniority list as a consequence of the order of promotion of the applicants w.e.f. 1.6.81. Therefore, the applicants filed these O.As for the relief as mentioned above.

5. Reply was filed. It is stated in the reply that the respondents had already implemented the directions of the Tribunal issued on 22.4.94 and the applicants are seeking relief for revising the seniority list,

Annx.A4 and Annx.A5, after such a long time. Therefore, these O.As are hopelessly barred by limitation. It is also stated that as per Annx.A4 & Annx.A5, respondents Nos.4 and 5, are senior to the applicants, therefore, the applicant has no case for revising the seniority list and in order dated 22.4.94, issued by the Tribunal, no directions were given for revising the seniority of the applicants. Therefore, the applicants are not entitled to any relief sought for. It is further stated that the applicants in their O.As sought relief including the seniority and the Tribunal did not allow the relief of seniority to the applicants. Therefore, the applicants are estopped to approach this Tribunal for the same ground repeatedly on the principle of resjudicata and the applicants have no case for interference by this Tribunal.

6. Heard the learned counsel for the parties and also perused the whole record.

7. Undisputedly, the order passed in O.A No.514/92 on 22.4.94, have already been complied with and the Contempt Petition filed by the applicants Kalash Chand and Amar Singh was also dismissed with the observation that no directions were given for determination of seniority. It is also an undisputed fact that the applicants and others have passed O.A No.514/92 and 515/92 before this Tribunal for implementing the restructuring order dated 17.7.81 and quashing the seniority list of Fireman-A issued on 4.2.88. But this Tribunal only gave benefit of upgradation to the applicants and others vide order dated 22.4.94 w.e.f. 1.6.81 but did not like to give any direction for determination of seniority of the applicants on account of upgradation. The Contempt Petition filed by the applicants was dismissed. In the reply filed on behalf of the respondents, it has been made clear that respondents No.4 and No.5 are senior to the applicants, according to the seniority list in force. As the applicants have already agitated the matter pertaining to the seniority in the earlier O.A filed by them and this Tribunal did not allow the prayer of the applicants regarding seniority. We are, therefore, of the opinion that the applicants are



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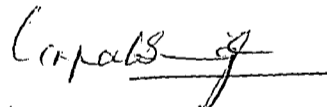
estopped to agitate the same issue again as they have already agitated this issue in their earlier O.A No.514/92 and O.A No.515/92. Therefore, on the ground of resjudicata, the claim of the applicants, in our considered view, is not maintainable.

8. The learned counsel for the respondents has argued that the O.As filed by the applicants are barred by limitation.

9. Admittedly, the applicants in both the O.A has come forward for revision of their seniority list Annxs.A4 and A5, in view of the orders of this Tribunal dated 22.4.94 and these O.As have been filed in the year 1996 i.e. after a long lapse. No proper explanation for the delay was given by the applicants, no application for condonation of delay has been filed by the applicants. Merely that the applicants were given benefits of upgradation vide order of this Tribunal dated 22.4.94 does not mean that the applicants are at liberty to claim the revision of seniority lists of 1988 and 1996. In our considered view, these applications are hopelessly barred by limitation. Therefore, on the ground of limitation also these O.As are not maintainable.

10. On the basis of foregoing discussions, we are of the considered opinion that the applicants are having no case and these O.As are liable to be dismissed.

11. We, therefore, dismiss the O.As with no order as to costs.


(Gopal Singh)

Member (A).


(S.K. Agarwal)

Member (J).