

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH.

O.A.No.170/2005

Decided on : April 20, 2005.

**CORAM : HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN &
HON'BLE MR.A.K.BHANDARI, MEMBER (ADM.).**

B.L.Jain S/o Shri Mohan Singh Dhabriya aged about 69 years, resident of 10/601, Kaveri Path, Mansarovar Jaipur. Retired from Ex. Cadre Post of Traffic Inspector Sikar under Divisional Railway Manager, Jaipur.

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Applicant

By : Mr.C.B.Sharma, Advocate.

Versus

1. Union of India through General Manager, North-Western Zone, North-Western Railway, Jaipur-302006.
2. Divisional Railway Manager, North-Western Railway, Jaipur Division Jaipur-302006.

Respondents

By : None.

ORDER (ORAL)

KULDIP SINGH, VC

The applicant had filed O.A.No.360/92 (72/87), before this Bench of the Tribunal claiming that order dated 23.1.1987 be quashed and further respondents may be directed to allow him to appear in the selection of T.I. grade Rs.455-700 and also be ordered to count him in the grade of Rs.550-750 since January, 1986 with all consequential benefits. However, learned counsel for the applicant had mentioned that the applicant is working against the vacant post and he has not been reverted for the reasons that interim order had been passed in his favour and thus the applicant was not reverted and he was going to retire on 41.5.1993. Considering all these facts, a Bench of this Tribunal by order dated 13.5.1993, on the basis of the statement made at bar, ordered that the applicant will continue to hold the post upto 31.5.1993, if he was not reverted so far and he will be entitled for



pensionary benefits according to the rules.

So, it is clear that the applicant had chosen not to press for his claim for the grade of Rs.550-750 and had accepted his fate. Now the present Original Application has been filed by him being aggrieved against the order date 18.10.2004 (A-1) by which his request for considering him for promotion to the post of Station Superintendent has been rejected.

It is apparent from the impugned order, Annexure A-1, that applicant was promoted as Traffic Inspector in the pay scale of Rs.1400-2300 and he chose to remain in that line and even went to the extent of filing an O.A. Before this Tribunal and obtained a favourable order to the effect that he be continued in that scale till his retirement despite the fact that he had already been promoted as Station Master. By a conscious decision, he chose not to accept his promotion as Station Master. For whatever reasons, this O.A has been filed by him seeking promotion as Station Master and consequential benefits at par with his junior who were promoted as Station Master and were granted benefits under the restructuring scheme.

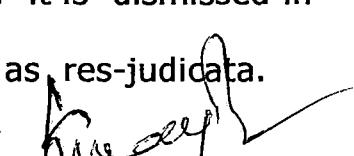
We find that the applicant himself chose to remain in T.I. Cadre for which he filed an O.A. Before this Tribunal and favourable orders were passed directing that he be continued as T.I till 31.5.1993. The applicant accepted that line with his eyes wide open and now subsequently if the S.M. Line became more lucrative due to restructuring scheme etc., the applicant cannot be allowed to agitate the issue through the present O.A. He is estopped from filing the instant Original Application. It is not disputed that applicant was offered promotion as S.M. But out of his own sweet will, he chose not to accept the same.

It is also seen that applicant had also filed another O.A.No.602/93 before this Tribunal claiming, inter-alia, that

respondents may be directed to grant promotion to the applicant in the cadre of Station Master as the applicant qualified the suitability and selection test in the aforesaid cadre. They may be further directed to grant actual benefits of the pay of the post of Station Master and the post of Station Superintendent in various pay scales. He may also be granted expensionary benefits on the basis of the higher pay scales of Station /Superintendent in scale Rs.2000-3200 (RP) or in the higher scale to which he may be entitled. The O.A was dismissed on 7.9.1994. It was observed that in the earlier O.A.No.360/92, in view of the statement of the learned counsel for the applicant, that applicant may be allowed to continue on the post of T.I till his retirement so that he is entitled to pensionary benefits on the scale of pay which he was drawing at that time, the Tribunal had passed the specific order that the applicant shall be allowed to continue on the post of Traffic Inspector till the date of his retirement. By implication, no other relief was asked for at that time. Now the matter regarding promotions to higher scales, etc. which was not pressed or which was given up at the time of hearing of the earlier O.A. cannot be agitated afresh. Thus, the O.A was dismissed at the stage of admission, being barred by principles of res-judicata. In view of these facts, even the present O.A. Is found to be not maintainable. Thus, the present O.A is also held to be barred by the principles of res-judicata.

We do not find this O.A. To be triable one and it is dismissed in limine being barred by principles of estoppel as well as res-judicata.


(A.K.BHANDARI)
MEMBER (ADM.)


(KULDIP SINGH)
VICE CHAIRMAN

April 20,2005.

HC*