

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**

**ORDERS OF THE TRIBUNAL**

13/05/2014

O.A. No. 179/2013

Dr. Saugath Roy counsel for the applicant.

Mr. Anupam Agarwal counsel for the respondent Nos. 1 & 2.

None for the respondent No. 3.

Heard the learned counsel for the parties.

Order reserved.

*M. Nagarajan*

(M. Nagarajan)  
Member (J)

*Anil Kumar*

(Anil Kumar)  
Member (A)

Vv

At. 23-5-2014

Order pronounced today in the  
open court by the Honble Bench.

*Anil*  
23/5/14  
(C.O.)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**

**ORIGINAL APPLICATION NO. 179/2013**

**Order Reserved on 13.05.2014**

**Date of Order: 23.05.2014**

**CORUM**

**HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER  
HON'BLE MR. M. NAGARAJAN, JUDICIAL MEMBER**

Mrs. Mridula Paliwal, age about 58 years , wife of Shri Ashok Paliwal, Resident of 93-95, Agrawal Farm, Mansarovar, Jaipur, Chief Office Superintendent, Divisional Office, Jaipur.

.....Applicant

(By Advocate : Dr. Saugath Roy)

**VERSUS**

1. The Union of India through General Manager, North Western Railway, Jawahar Circle, Jaipur
2. The Divisional Railway Manager(Establishment), North Western Railway, Power House Road, Jaipur
3. The Secretary(DOPT), Department of Personnel & Training, North Block, Central Secretariat, Vijay Path, New Delhi.

.....Respondents

(By Advocate : Mr. Anupam Agrawal )

**ORDER**

(Per : Hon'ble Mr. Anil Kumar, Administrative Member)

The applicant has filed present OA praying for the following reliefs:-

- (a) The Hon'ble Tribunal be pleased to allow the original application and the impugned order Annexure-A/1

*Anil Kumar*

dated 3.1.2013 issued by the respondent No.3 be quashed and set aside.

- (b) The respondent (DOPT) be directed to implement the judgment by adopting the DOPT roster in up-gradation of post in its true spirit and the applicant be granted the promotion w.e.f. 9.3.2004 date of panel on the post of Chief Office Superintendent with actual financial benefits with consequential benefits.
- (c) Any other order or direction, which Hon'ble Court deem fit and proper be passed in favour of the humble applicant.

2. The brief facts of the case as stated by the learned counsel for the applicant are that the applicant while serving as office superintendent assailed the impugned order dated 23.2.2004 where by the panel prepared earlier was cancelled by applying the L type roster of the Railway Board dated 21.8.1997 and the Original Application filed by the applicant was allowed on 7.8.2008 and the respondent Railway was further directed to examine the matter again applying the DOPT roster and in case the applicant is entitled, such promotion shall be extended to her. The period of two months was given to undertake the exercise of promotion. (Annexure A/1).

3. This order was assailed before the Hon'ble High Court, Rajasthan, Jaipur Bench, Jaipur. The Hon'ble High Court vide its order dated 20.7.2012 disposed of the writ petition with the following observations:-

*Anil Kumar*

"Learned counsel for the parties submitted that point involved in the present matter is covered by decision of Hon'ble Apex Court in **Civil Appeal No. 2614/2003, Union of India and Others Vs. Rajendra Kumar Gaur and Anr. decided on 9.11.2011,** therefore, present writ petition may be disposed off in terms of decision delivered by Hon'ble Apex Court.

In view of joint request of learned counsel for the parties, writ petition as well as stay application both are disposed off in terms decision delivered by Hon'ble Apex Court in **Civil Appeal No. 2614/2003, Union of India and Ors. Vs. Rajendra Kumar Gaur and Anr. (Annexure-A/3)"**

4. The learned counsel for the applicant submitted that thereafter the applicant submitted representation on 6.8.2012 to the respondent Railways for the implementation of the judgment (Annexure-A/4). The respondents instead of implementing the order, rejected the representation of the applicant vide impugned order dated 7.9.2012 (Annexure A/1).

5. The learned counsel for the applicant submitted that the respondent No. 3 while rejecting the representation of the applicant referred to the judgment of the Hon'ble Supreme Court passed in Civil Appeal No. 2614/2003 in the case of Union of India Vs. Rajendra Kumar Gaur (Annexure A/5) .

6. That the question in the case was whether the L type roster of Railway will apply in promotion on upgraded post or the roster of DOPT will apply in such situation.

*Anil Kumar*

7. That Central Administrative Tribunal, Jodhpur allowed the original application and in the case of Rajendra Kumar Gaur quashed L type roster of the Railways and directed the respondent Railway to adopt DOPT roster. The order of the Central Administrative Tribunal was affirmed by High Court, Jodhpur.

8. The learned counsel for the applicant further stated that before the Hon'ble Supreme Court on 9.11.2011, a statement was recorded "that in the meanwhile DOPT would be in a position to take a decision which would set the controversy at rest for all times to come" and in the light of the undertaking the DOPT should have taken a decision to implement the DOPT roster in case of promotion on upgraded post.

9. That the respondents have wrongly construed the observation given by Hon'ble Supreme Court of India and in the judgment the observation is there that the relief may be granted to each of the respondents in their appeal and other batch matters and the case of the applicant will come under the batch matter as her case was decided prior to decision of the Hon'ble Supreme Court of India. Therefore, the learned counsel for the applicant prayed that the OA be allowed.

10. The respondents have filed their reply. The respondents in their reply have stated that the applicant has filed the present OA to ensure the compliance of the order of the Tribunal passed in OA No.116/2004 dated 7.8.2008 (Annexure-A/2). This order of the Tribunal was challenged by the respondents before the

*Anil Kumar*

Hon'ble High Court which was disposed off by the Hon'ble High Court in view of the joint request of the parties that the writ petition be disposed off in terms of decision of the Hon'ble Apex Court in Civil Appeal No.2614/2003, Union of India Vs. Rajendra Kumar Gaur.

11. The learned counsel for the respondents submitted that the said Civil Appeal was decided by the Hon'ble Apex Court in the light of statement made by the counsel for the appellant to grant the benefit to the respondents with a further stipulation not to treat it as precedent for other cases. This fact has been informed to the applicant by the impugned order dated 7.9.2012 (Annexure A/1). Therefore, the applicant can not have grievance against this order.

12. The learned counsel for the respondents further submitted that the Hon'ble Apex Court has directed to give the benefit of the order of the learned Tribunal only to the respondents before it. The operative part of the order has been quoted by the respondents in their reply:-

"The relief may be granted to each of the respondents in this appeal and other connected batch matters but it would not be treated as precedent."

13. The respondents stated that the benefit of the order of the Hon'ble Apex Court has been granted to the persons in four appeals before it and no further. Applicant since not one of them can not claim it through the present OA. The applicant can not re-agitate the issue before the learned Tribunal by way of this

*Anil Kumar*

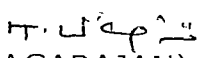
Original Application. Therefore, OA has no merit and it should be dismissed with costs.


14. Heard the learned counsel for the parties, perused the documents on record and the case law referred to by the learned counsel for the applicant. We have carefully gone through the judgment of the Hon'ble Supreme Court in Civil Appeal No. 2614/2003 in Union of India Vs. Rajendra Kumar Gaur and others with four other connected civil appeals. Before the Hon'ble Supreme Court the learned Additional Solicitor General appearing for the appellants submitted that in the peculiar facts and features of this case the respondents may be granted relief as prayed by them in that original application and granted by the Tribunal and confirmed by the Division Bench in the appellants writ petition but let it not be treated as precedent. This statement has been made on the fond hope that in the meanwhile DOPT would be in a position to take a decision, which would set the controversy at rest for all times to come. The Hon'ble Supreme Court have categorically stated that, however, the relief may be granted to each of respondents in this appeal and other connected batch matters but it would not be treated as precedent.

15. The contention of the learned counsel for the applicant that the case of the applicant should also be treated as other connected batch matters as her case was decided prior to decision of the Hon'ble Supreme Court, is not acceptable as the other connected batch matters as referred to by the Hon'ble Supreme Court refers to the other four civil appeals pending before it. The learned counsel for the respondents submitted that the applicant can not ask for enlarging the scope of the

*Anil Kumar*

order by way of this original application. She can not allege her matter as connected batch matter. We are inclined to agree with the contention of the learned counsel for the respondents that the applicant has no claim in the present OA. The Hon'ble Supreme Court has made it very clear that there judgment would not be treated as precedent. Therefore, we find no merit in the present OA. Consequently, the OA is dismissed being devoid of merit with no order as to costs.

  
(M. NAGARAJAN)  
MEMBER (J)

  
(ANIL KUMAR)  
MEMBER (A)

Adm/