

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**OA No. 96/2015**

Reserved on 02.05.2016

Pronounced on 05.05.2016

**Hon'ble Dr. Birendra Kumar Sinha, Member (A)**  
**Hon'ble Smt. Jasmine Ahmed, Member (J)**

Shri Gabar Singh Rawat,  
S/o Late Kunwar Singh Rawat,  
Age about 63 year  
R/o = 901, Rajpur Extn,  
Near Chhatarpur, New Delhi.

.. Applicant

(By Advocate: Mr. Manjeet Singh Reen )

**VERSUS**

Union of India & others: through

1. The Secretary,  
Ministry of Railways,  
Railway Board, Rail Bhawan,  
New Delhi.
2. The General Manager,  
Northern Railway,  
Baroda House, New Delhi.
3. The Divisional Railway Manager,  
Northern Railway,  
State Entry Road, New Delhi.
4. The Divisional Railway Manager,  
Northern Railway,  
Moradabad Division,  
Moradabad (UP).

.. Respondents

(By Advocate: Mr. Kripa Shankar Prasad )

**ORDER**

**Hon'ble Smt. Jasmine Ahmed, Member (J) :**

The prayer made in the present Original Application filed under  
Section 19 of Administrative Tribunals Act, 1985 read thus:-

"8.1 That this Hon'ble Tribunal may graciously be pleased  
to direct the respondents to examine the case of the  
applicant in the light of Nand Kishore case as well as Nabi  
Mohd's, Kusum Maliks' & Raja Ram's case and decided

their pending representation dated 12.8.2014 by speaking and reasoned order under intimation to the applicant with all consequential benefits.

8.2 That this Hon'ble Tribunal may graciously be pleased to direct the respondents to extend the same benefits to the applicant which was extended to Shri Nand Kishore & Others in OA No.551/2002 upheld upto the level of Hon'ble Supreme Court later on the respondents vide their order dated 11.1.2012 implemented the direction of this Hon'ble Tribunal as well as Nabi Mohd's case in OA No.1706/2008 and Kusum Maliks' & Raja Ram's case both judgments have been implemented by the same respondents and same benefits extended to other similar colleagues of the applicant.

8.3. That any other or further relief which this Hon'ble Tribunal may be deem fit and proper under the circumstances of the case may also be granted in favour of the applicants.

8.4. That the cost of the proceedings may also be awarded in favour of the applicants."

2. It is the contention of the learned counsel for the applicant that the applicant was appointed by the respondents on 28.06.1979 to the post of Mobile Booking Clerk (MBC) and continued till 18.06.1986. After that on 19.09.1986, he was sent for training as Coaching Clerk. The applicant was regularized to the post of MBC on 09.12.1983. On 14.10.1986 his category was changed and joined at Delhi Division as Parcel Booking Clerk. In the year Jan., 2006, he was promoted as Head Parcel Clerk and on 27.04.2010 promoted as Parcel Supervisor. He continued to work on the said post till he superannuated w.e.f. 30.11.2012 from the post of Parcel Supervisor. It is the contention of learned counsel for the applicant that the applicant is similarly situated with the applicants in OA No.551/2002 titled **Nand Kishore and others Vs. Union of India and Another** decided on 30.04.2004 and in OA No. 1706/2008 titled **Nabi Mohd and others Vs. Union of India through General Manager, Headquarter Office and**

**Another** decided on 11.08.2008. The order of the Tribunal in OA 551/2002 was challenged before the Hon'ble High Court of Delhi in Writ Petition (Civil) No. 1932/2005 and after detailed deliberation and discussion, the Writ Petition filed by the respondents was dismissed by the Hon'ble High Court of Delhi. The issues in OA No.551/2002 which was upheld by the Hon'ble High Court was about regularizing the services of the applicants therein on the same condition as contained in the Circulars dated 21.04.1982 and 20.04.1985 issued by the Railways. The terms and conditions stipulated in those above said circulars for regularization of services were that the concerned persons have to fulfil the prescribed age limit and also should have put in 3 years of service, but no condition with respect of completion of training before regularization was ever prescribed in those said circulars. It was also held by the Hon'ble High Court that by insisting on completion of three years of service after training, the petitioner who is respondent before the Tribunal is making an innocuous attempt to introduce a new condition on the regularization of the services of the respondents in question. The Hon'ble High Court dismissed the Writ Petition filed by the respondents and upheld the order of this Tribunal. Not only that, while dismissing it was also observed in the judgment passed on 1.11.2010.

"45. In view of the above discussion, the above captioned petitions are dismissed. However, we refrain from imposing any cost."

3. The very languages of these two lines explicitly reflect that Hon'ble High Court did not appreciate the writ petition filed by the respondents herein. It is simple prayer of the applicant to grant him similar benefits, which was granted to other similarly situated person like him in

pursuance of the judgment quoted above. In this regard, counsel for the applicant drew our attention to page no. 34 of the OA which is a letter issued under the signature of the General Manager (P) Northern Railway dated 19.09.1986. The subject matter of the letter dated 19.09.1986 was for recruitment and training for the post of Coaching Clerk grade Rs.260-430 (RS) training from 23.06.1986 to 9.08.1986. In this letter, we find the name of the applicant figured at serial no. 8. There were other employees similarly situated like applicant, namely, Abhai Kumar Srivastava who figured at serial no. 3 and Vinod Kumar Aggarwal who figured at serial no. 4 and Ram Baboo who figured at serial no.7.

4. Counsel for the applicant drew our attention to page no. 35 also which is the letter dated 25.09.1986 wherein a notice was issued from the office of Northern Railway Divisional Railway Manager Office, New Delhi wherein it is stated that "the following prob coaching clerks on completion of T-7 courses at Chandausi School from 23.06.1986 to 8.8.1986 reported in this office on 22.09.1986 for 14 days practical training in the duties of BC/PC at Delhi.". In this notice, the name of the applicant again figured at serial no. 8 and the above said Abhai Kumar Srivastava, Vinod Kumar Agarwal and Ram Baboo figured at serial no. 3, 4 and 7 respectively.

5. The counsel for applicant took us to page no. 77, 78, 79 and 80 wherein notice was issued from the DRM Office, New Delhi, wherein the name of Shri Abhai Kumar Srivastava, Ram Baboo and also Vinod Kumar Agarwal has been shown and all the benefits of training has been given to these persons even after retirement who were similarly situated with the applicant and also figured in the lists dated

19.09.1986 and 25.09.1986. He also stated that Ram Baboo and V.K.Agarwal has been given the benefit by the respondents of their own circulars after their retirement. As Ram Baboo retired on 30.04.2005 and Shri Vinod Kumar Agarwal expired on 17.01.2007 and the benefit was extended to these persons vide letter dated 7.05.2007, hence the counsel for the applicant contended that the respondents are giving the applicant step motherly and discriminatory treatment.

6. Counsel for the applicant states that the issue involved in the present OA has already been decided by the case of Gaj Raj Singh's OA which was filed in the year 2014 and reliefs were given as per the judgment given in the case of Nand Kishore which was passed by this Tribunal on 30.04.2004.

7. Counsel for the applicant also states that even the case of Nand Kishore travelled till Hon'ble Apex Court as the respondents filed SLP which was dismissed by the Hon'ble Apex Court on the ground of delay as well as on merits. Hence, he contended that the respondents without putting any hindrance should have given the same benefits to the applicant of their own as the applicant preferred representation dated 8.11.2012 which is at page no. 107 of the paper book by which the applicant has categorically stated that he was screened along with Shri Abhai Kumar Srivastava, Shri Vinod Kumar Agarwal and Shri Ram Baboo after completion of 120 days as Mobile Booking Clerk and was granted temporary status but till date he has not been given any benefit of the period from 28.06.1979 to 18.06.1986 wherein he completed 120 days of service and was granted temporary status. In this regard, he preferred representation to the respondents but the respondents in a very cryptic manner have passed the impugned order in three lines which is not at all reasoned and speaking in the eyes of law.

8. Counsel for the applicant also drew our attention to page no. 134 which is the letter issued by the Divisional Railway Manager Office, Moradabad dated 9.12.1983 regarding regularization of Mobile Booking Clerk and he drew our attention to page no.135 and wherein the name of the applicant figured at serial no. 20. He also states that at serial no 6 the name of Gaj Raj Singh was there who filed OA No.4291/2014 before this Tribunal and the OA has been allowed on 4.12.2014, hence it establishes that being similarly situated, the applicant should be given the benefit already intended to Gaj Raj Singh.

9. Per contra, counsel for the respondents, Mr.K.S.Prasad vehemently opposes the contention of learned counsel for applicant and states that the case of the applicant is no way similar in nature as of the case of Nand Kishore (supra). He also states that the applicant retired in the year 2012 and filed this instant OA in the year 2015 and also claiming a stale relief which is about 40 years old. He also states that the counsel for applicant has put his reliance on page no. 35 of the OA which states about two dates which is pertaining to training period from 23.06.1986 to 8.8.1986 but the claim of the applicant that he is working since 1979 has not been proved by any valid document. Hence the case is badly barred by limitation. He also states that the applicant should have come before this Court much earlier and states that Hon'ble Apex Court has held in various judgments that if anybody is sleeping over his right, he is not entitled to get that relief. He also states that there is no proof that applicant is working with the respondents from 1979. He drew our attention to page no.3 of his counter affidavit wherein he states that there is no entry as per his service record that the applicant is working to the post of Mobile Booking Clerk since 1979 nor there is any documentary evidence to prove the applicant's contention. The applicant already requested by

giving a representation, his representation has already been turned down vide letter dated 12.08.2014 by Moradabad Division for want of any available record with the respondents. He also states that the letter dated 25.09.1986 only states about the training to be undergone by the applicant but by any stretch of imagination it cannot be inferred from the letter that the applicant joined with the respondents since 1979. Hence his case cannot be equated with the case of Nand Kishore (supra) for whom there was clear evidence that they joined before 1981 and was granted temporary status after completion of 120 days, afterwards regularised and accordingly promoted to the other posts and got all the benefits as per the circulars. Hence, he states that the OA is barred by limitation in claiming a relief of 40 years old, that also after three years of retirement. The applicant is no way entitled to get any relief as prayed by him through this OA.

10. In rebuttal the counsel for the applicant drew our attention to page no. 31 of OA which is a certificate given by the respondents themselves which reads as follows:

“माहणत कया जाता है क पी गबर संह रावत पु पी क्वर संह रावत क जयुति प सं या -१ एमबीसी/टस /७९ सी० दनांक २९-८-७९ के अनुसार पया १.५० पैसे त घंटा ४ घंटा त दन पांच पये त दन के हसाब से दनांक २८-६-७९ तक रेलवे टेशन नजीबाबाद पर मोबाइल बुझंग लक के पद पर कायकया ।

इनका कायसदैव ह सराहाए रहा है ।

Sd/-

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and further states that this certificate is issued by the respondents themselves and if the respondents are not having any contradictory valid documents to deny this document then the respondents are debarred from stating that applicant has not annexed any valid

document to prove that he is working with the respondents since 1979.

11. Counsel for the applicant vehemently argues that all the documents placed reliance by him clearly establish that applicant is similarly situated with those applicants who have already filed OAs before this Tribunal as upheld by Hon'ble High Court and also confirmed by the Hon'ble Apex Court. He also states that the contention of the learned counsel for respondents that applicant is not similarly situated cannot be proved any way by the respondents.

12. Heard the rival contentions of the parties and perused the documents on record.

13. It is undoubtedly proved from all the documents on record that the applicant is similarly situated with those applicants in OAs no. 551/2002, OA 1706/2008 and OA 4291/2014. It is also held by Hon'ble Apex Court in various judgments that multiplicity of litigation should be avoided. If a similarly situated employee is claiming similar relief which has already been confirmed by the highest Court of law, then the respondents shall extend the benefit to the applicant if they found the case is not otherwise. Hence, by unnecessarily harassing the applicant and not extending the relief to him though the documents show that he is similarly situated with Shri Abhai Kumar Srivastava, Shri Vinod Kumar Agarwal and Ram Baboo, the respondents act suffers from discrimination and arbitrariness.



14. The order dated 8.08.2014 is quashed and set aside, the OA is allowed with direction to respondents to grant all benefits to the applicant as have been granted to the above similarly situated persons from due date. No costs.

**(Smt.Jasmine Ahmed )**  
**Member (J)**

**( Dr.Birendra Kumar Sinha )**  
**Member (A)**

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