

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No 3666/2012

With

OA 558/2013

Reserved on : 29.07.2016

Pronounced on: 02.08.2016

HON'BLE MR.P.K.BASU, MEMBER (A)
HON'BLE MR.RAJ VIR SHARMA, Member (J)

OA 3666/2012

1. V.K.Soni,
S/o Late Shri Gian Chand,
Working under Dy.CE/
Construction/UMB
H.No.2, Chander Puri Colony,
Machonda Road, Ambala Cantt.
2. Gian Chand,
S/o Nand Lal,
Working under Dy.CE/
Construction/UMB
39-A, Tagore Garden, Mahesh Nagar,
Ambala Cantt.
3. Rajender Kumar,
S/o Hariram,
Working under Dy.CE/
Construction/UMB
H.No. 36, Mathura Nagari, Ambala City,
Haryana.
4. D.P.Garg,
S/o Shri Radhey Lal,
Working under Dy.CE/
Construction/NR/
H.No.3/441 'A' Janak Nagar,
Saharanpur (UP)
5. Rakesh Kumar,
S/o Shri Ram Sarup,
Working under Dy.CE/
Construction-I/CDG
H.No. 319/9, Mohan Garden(Saidan),
Shahabad (M), District- Kurushetra.
6. Rakesh Kumar,
S/o Shri Mohan Lal,
Working under De.CE//UMB,
223-B, Part-1, Sector-1,
HUDA Shahabad (M),
District- Kurushetra.

7. S.K. Shukla,
S/o S.P.Shukla,
Working under Dy.CE/
CSB, New Delhi.
E-136/A, Railway Colony, Panipat.
8. R.N.Malik,
S/o Ran Pat Malik,
Dy.CE/C/TKJ, New Delhi
C-2B, Railway Colony,
Rohtak (Haryana).
9. Rama Nand Upadhyay
S/o Rudra Narain Upadhyay
Dy.CE/C/SE Road, New Delhi
A-3/1 Charni Vihar,
Ghaziabad (UP).
10. Surender Kumar Gaur,
S/o Jagdish Prasad,
Dy. CE/C/N.Rly, Shivaji Bridge,
New Delhi.
32-A, Arya Nagar, Ghaziabd (UP)
11. Shailender Juyal
S/o Late Shri Kishan Dutt Juyal,
Working under DSE/C/MB, DRM Office,
Muradabad (UP)
2/121B Budhi Vihar, Avas Vikas
Majhola, Moradabad (UP).
12. Niyamullah
S/o Shri Budhai
Dy.CE/C/ Muradabad,
82/B, North Railway Colony
Bareilly Junction.
13. Sudesh Kumar Sharma
S/o Shri Yog Dutt Sharma
Working under CAO/C/Kashmiri Gate, Delhi
7/91, Sarai Nawab, Opp. Laxmi Metal Work,
Aligarh-202001.
14. Arshad Tasleem Ahmed,
S/o Late Shri Tasleem Ahmed,
Working under Dy.CE/C/D-II/
L-17, Batla House
Near Masjid Khalil-UL-LAH,
Jamia Nagar, New Delhi.

15. K.S.Rawat
S/o Late Shri K.S. Rawat,
Working under XEN/Headquarter/CAO
/Off./NR/Kashmiri Gate, Delhi.
Flat No. 94, FF Nayakhand,
Indrapuram (Ghz.) UP.
16. R.S.Ujlayan
S/o Ram Sharan
Working under Dy.CE/Construction/
NR/Tilak Bridge, New Delhi
10/A-1, Railway Colony, Wazirpur,
Delhi-110052
17. P.K.Sharma,
S/o Bhagwan Swarup Sharma
Working under Dy.CE/Construction/
NR/Tilak Bridge, New Delhi
T-53/3, Railway Colony,
Subzi Mandi, New Delhi-110007
18. Ravi Kant
S/o Shri Mohan Lal
Working under Dy.CE, Shakur Basti, Delhi
83-Z-1, Railway Colony,
Tughlakabad, New Delhi.
19. Bhagwati Prasad
S/o K.N.Gairola,
Working under DRM/DLI,
6139-A, Sector-3, Faridabad
(Haryana).
20. Shiv Dutt Sharma
S/o D.S.Sharma
Working under DRM/DLI,
B-33, Punchsheel Colony,
Meerut Road, Hapur
21. Prem Pal Singh Tomar
S/o G.Singh Tomar
Working under Dy.CE/C/CSB
77 A-1, Railway Colony,
Ashok Vihar-III, Delhi-110052.
22. Anand Ballabh Joshi
S/o Shri G.B.Joshi,
Dy./CE/Construction/SERD,
A-3/62, Sector-5, Rajender Nagar,
Sahibabad Ghaziabad(UP).
23. Kanwar Singh Kushwaha
S/o Mewal Lal Kushwaha,

Dy.CE/Construction-1/NR, Lucknow
EC-III 12-A, L.D. Railway Colony,
Alambagh, Lucknow.

24. Vijay Pal
Late Shri Jagannath Maurya
Working under Dy.CE/C/I/
Lucknow
A-611, Indra Nagar, Lucknow (UP)
25. Mahendra Pratap
S/o Sh.Pancham Ram Yadav,
Working under Dy.CE/Construction-1/CSB,
D-204, Sri Ram Nagar Shahdra, Delhi.
26. D.K.Chaudhary
S/o Late Sh.Ram Murat Chaudhary
Working under Dy.CE/Construction/Agra
357/84/76-B, Kundla Himraj Ganj,
Allahabad (UP).

... Applicants

(By Advocate Mrs. Meenu Mainee)

VERSUS

Union of India: Through

1. The Secretary,
Railway Board,
Ministry of Railways, Rail Bhawan,
New Delhi.
2. General Manager,
Northern Railway, Baroda House,
New Delhi.
3. Chief Administrative Officer (Construction)
Northern Railway, Kashmiri Gate,
Delhi.

... Respondents

(By Advocate : Mr. Shailendra Tiwary with Mr. VSR Krishna)

OA 558/2013

Shri Harbans Lal,
S/o Shri Bagrawat Ram,
Working Jr. Engineer (Works)/
Construction under Deputy Chief Engineer
(Construction), Northern Railway,
Udhampur Nagar (UP).

... Applicant

(By Advocate Mrs. Meenu Mainee)

VERSUS**Union of India:** Through

1. The Secretary,
Railway Board,
Ministry of Railways, Rail Bhawan,
New Delhi.
2. General Manager,
Northern Railway, Baroda House,
New Delhi.
3. Chief Administrative Officer (Construction)
Northern Railway, Kashmiri Gate,
Delhi.

... Respondents

(By Advocate : Mr. Praveen Kumar for Shri Jitendra
Kumar Singh)

ORDER**Hon'ble Mr.P.K.Babu, Member (A):**

The OA Nos. 3666/2012 and 558/2013 are taken up together for disposal by this common order as the issue is the same.

2. The applicants who are Diploma Holders, were appointed as Sub Overseer Mistry (SOM). It is stated that in OA No.1684/2000 (**Mam Chand and Others Vs. Union of India through The General Manager, Northern Railway, Baroda House and Others**), the applicants had claimed pay scale of Rs.1400-2300 in place of Rs.1200-2040. The OA was allowed with direction to respondents to grant the applicants benefits of revised pay scale of Rs.1400-2300 w.e.f. 1.1.1986 notionally and actually from the date of filing of OA i.e. w.e.f. 1.09.2000 only. Appeal filed by the respondents, Writ Petition (C) No. 5882/2000 against the aforesaid order of the Tribunal was

dismissed by the Hon'ble Delhi High Court on 10.08.2010. Special Leave Petition of the respondents in the Hon'ble Supreme Court was dismissed vide order dated 29.08.2011.

3. The applicants filed a representation before the respondents stating that benefits of the aforesaid order in OA No.1684/2000, as upheld right upto the Hon'ble Supreme Court, should also be given to them, more so, when the applicants are Diploma Holders and Shri Mam Chand was not even a Diploma Holder. There was no response from the respondents and, therefore, these OAs have been filed seeking the following reliefs:-

- "i. To extend the benefit of the judgment in Mamchand's case to the applicants who are similarly situated staff and are entitled to the benefit of having their pay fixed in Grade Rs.1400-2300 w.e.f. 1.1.1986 with all consequential benefits.
- ii. To give all consequential benefit also.
- iii. This Hon'ble Tribunal may be further pleased to give and grant any further relief which this Hon'ble Tribunal may deem fit and proper under the circumstances with this case to grant costs in favour.
- iv. Case of proceeding may also be awarded to the applicant."

4. The applicants have also filed order of this Tribunal in OA No. 3746/2012 (**Yasin Khan and Ors. Vs. UOI and Ors**) on the same issue, which was allowed by the Tribunal in view of the decision of the Tribunal in OA No. 1684/2000 with the following directions:-

"4. In view of the above position, we allow this OA with the same direction as given by us in the aforesaid OA-1684/2000. If their cases are covered by the aforesaid orders they will be entitled for notional fixation of pay w.e.f. 01.01.1986 actual monetary benefit with effect from 05.11.2012 i.e., the date of filing of this OA. Respondents are directed to pass appropriate separate orders in respect of both the applicants within a period of 2 months from the date of receipt of a copy of this order. There shall be no order as to costs."

5. The only objection raised by the respondents is that the applicants have filed this OA with unexplained delay. They have joined long back in the year 1982 and have approached this Tribunal only in 2012 seeking rectification of pay scale from 01.01.1986. It is further stated that they had first joined as Casual Mistry and regularized only later. The learned counsel relies on the decision of the Hon'ble Supreme Court in **Boop Singh Vs. Union of India & Ors** (1992) 3 SCC 136) in support of his contention that there is no question of condonation of delay in this case. In fact, it is further pointed out that in their condonation of delay petition, no attempt has been made by the applicants to give specific reasons why this delay should be condoned and why they were sleeping over the matter for so many years.

6. The learned counsel for the respondents also raised the question that the applicants are working in different stations in the country and, therefore, they should have moved transfer petition for transfer of the case to the Principal Bench which has not been done and, therefore, the OA suffers from this defect of jurisdiction as well.

7. On the question of limitation, the learned counsel for the applicants stand is that the judgment of the Tribunal dated 12.12.2001 was upheld by the Hon'ble High Court on 10.08.2010 and SLP was dismissed on 29.08.2011. The applicants submitted a representation thereafter on 12.03.2012 seeking the benefit of Mam Chand (supra) case. There was no response of the respondents. It is argued that it is only after the matter was decided by the Supreme Court that they could have approached this Tribunal for giving the same benefit as in the Mam Chand (supra).

8. The applicants further state that in the matter of placement in the pay scale, the action arises every month and being a recurring cause of action, in view of the decision of the Apex Court in **M.R. Gupta Vs. Union of India and Others** (1995) 5 SCC 628), the claim cannot be treated as barred by limitation.

9. Further, it is argued that even in July, 2015 while disposing of OA 3746/2012 in exactly the same circumstances, the question of delay was not considered and the OA allowed.

10. Learned counsel also referred to judgment of Hon'ble Supreme Court in **Amrit Lal Berry Vs. Collector of Central Excise, New Delhi and Others** (1975 (4) SCC 714), and specifically to the following observation in para 24 of the judgment:-

24..... We may, however, observe that when a citizen aggrieved by the action of a government department has approached the Court and obtained a declaration of law in his favour, others, in like circumstances, should be also to rely on the sense of responsibility of the department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to court."

11. In view of the orders of the Tribunal in OA Nos. 1684/2000 and 3746/2012, there is no doubt that the applicants in the present OAs also are covered by the decision in those OAs and, therefore, deserve to be given the benefit.

12. On the question of limitation, in view of the judgments of Hon'ble Supreme Court in **Amrit Lal Berry (supra)**, **M.R. Gupta (supra)** and the fact that OA 3646/2012 was decided recently in 2015, the question of limitation will not apply in these cases. The argument of the respondents that applicants being posted in different locations, PT should have been filed is also rejected as the grievance is against Railway Board, which is located in New Delhi.

13. The OAs are, therefore, allowed and the respondents directed to extend the benefit of judgment in Mam Chand (supra) case to the applicants who are similarly situated and are entitled to the benefit of having their pay fixed in the scale of Rs.1400-2300 w.e.f. 01.01.1986. However, the arrears will be payable from the date of filing of OAs, namely, 19.10.2012 and 31.01.2013 respectively. No costs.

(Raj Vir Sharma)
Member (J)

(P.K.Basu)
Member (A)

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