

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**RA No.92/2018
In
OA NO.242/2017**

NEW DELHI THIS THE 11th DAY OF JULY, 2018

HON'BLE MR. K.N. SHRIVASTAVA, MEMBER (A)

Prakash Veer (aged about 40 yrs.),
S/o Late Gaj Raj Singh,
Coach Attendant, Delhi Division,
Northern Railway Delhi
R/o Village & Post Shahpur,
Bamheta, Ghaziabad.

...Applicant

VERSUS

Union of India through:

1. Secretary,
Railway Board, Rail Bhawan,
New Delhi-110001.
2. General Manager,
Baroda House,
Northern Railway,
New Delhi.
3. Divisional Railway Manager,
Estate Entry Road,
New Delhi.
4. Senior Divisional Finance Manager,
Northern Railway, DRM Office,
Estate Entry Road, New Delhi.
5. Divisional Personal Officer
(DRM Office),
Northern Railway, Estate Entry Road,
New Delhi.

...Respondents

ORDER (By Circulation)

Through the medium of this Review Application (RA), filed under Section 22 (3)(f) of the Administrative Tribunals Act, 1985, the review applicant, who was original applicant in OA No.242/2017, has sought review of the order dated 01.05.2018 passed in the *ibid* OA. The applicant had prayed for the following reliefs in the OA:

“8.1 Allow the OA and direct the respondents to calculate the arrears of applicant’s father pay as coach attendant w.e.f. 1960 to 31.3.1995 and pension w.e.f. 1.4.1995 to 1.12.2004 and mother’s family pension w.e.f. 1.12.2004 to 30.3.2011 and pay the entire arrears to the applicant as a life time payment.”

2. The Tribunal vide its order under review dismissed the OA.

The operative part of the Tribunal’s order reads as under:

“6. Undisputedly, the applicant’s father retired way back on 31.03.1985. In terms of the Annexure R-1 Circular dated 16.07.1962 his service records were maintained for only 15 years and destroyed in 2010. In the absence of said record, it is just not possible for the respondents to process any claim of the applicant even if such claim is found to be genuine. The applicant also kept mum for a considerable period of time before seeking the benefits of Hon’ble High Court judgment.

7. In view of the above, I am of the opinion that the request of the applicant at this stage cannot be considered. Accordingly, the OA is dismissed. No costs.”

3. The applicant has sought review on the following grounds:

3.1 Although there is a provision for service record to be destroyed within 15 years, the OA was filed for notional promotion. The promotional records and staff register are permanent in nature.

3.2 The applicant's father retired from service on 31.03.1995 whereas the Tribunal in its order under review has erroneously mentioned it as 31.03.1985.

3.3 No limitation is applicable to the relief claimed in terms of the judgment of the Hon'ble Apex Court in **M.R. Gupta v. Union of India & Others**, [(1995) 5 SCC 628].

3.4 The Tribunal has wrongly placed reliance on circular dated 16.07.1962 in ordering dismissal of the OA.

4. I have gone through the RA as well as the judgment of the Hon'ble Apex Court in **M.R. Gupta**, (supra). As per the records, the applicant's father retired on 31.03.1995 but inadvertently in the Tribunal's order under review this date has been mentioned as 31.03.1985. This is an apparent error, which needs to be corrected.

5. As regards the other grounds raised in the RA, I am of the view that they are of no relevance. The 1962 circular of the Railway Board, referred to in the order of the Tribunal, mandates preservation of the service record of the retired employees only for a period of 15 years. Accordingly, the service records of the applicant's father were destroyed by the Railway department in the

year 2010. Hence, in the absence of the service records, no claim of the applicant could have been processed by the Railway department.

6. The judgment of the Hon'ble Apex Court in **M.R. Gupta** (supra) is not applicable to the instant case. In **M.R. Gupta** (supra), the Hon'ble Apex Court has only held that no limitation applies to such reliefs which are recurring in nature. The Tribunal did not dismiss the OA on the ground of limitation. The dismissal has been done on the basis of non-availability of the service records of the applicant's father which were crucial for determination of the reliefs claimed.

7. In view of the above, the order of the Tribunal does not need any review except to the extent that retirement date of the applicant's father should be mentioned as **31.03.1995** and not 31.03.1985. Registry is directed to incorporate this change of date in the order of the Tribunal and issue amended copy of the order to both the parties. The RA accordingly stands disposed of, in circulation.

(K.N. Shrivastava)
Member (A)

'San.'

