

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

OA NO.242/2017

NEW DELHI THIS THE 1ST DAY OF MAY, 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

(By Advocate: Mr. P.K. Ghosh)

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

(By Advocate: Mr. R.N. Singh, Mr. Amit Sinha & Mr. Vaibhav Pratap Singh)

:ORDER (ORAL):

The applicant through medium of the OA has claimed for the following reliefs:

“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 applicant’s father late Shri Gaj Raj Singh was employed in the Railways Department on 22.07.1959. He retired from service on 31.03.1995. On his retirement he was getting regular pension. He died on 01.12.2004 and after his death his widow was getting family pension who also died in 2011. The main contention of the applicant is that he is entitled to get the relief prayed for in terms of the judgment of Division Bench of the Hon’ble High Court in **Writ Petition (Civil) No.566/2000** dated 07.02.2008 (**All India Shramik & Coach Attendants Association & Ors. Versus Union of India & Ors.**), the operative part of which reads as under:

“The writ petition is hereby allowed. The respondents are directed to grant the claim of the petitioners for their placement in the pay scale of Rs.110-180/- since the year 1960, when the petitioners were recategorized as Passenger Attendants Grade-1 with the Indian Railways and the scales revised from time to time by various Pay Commissions of the persons who were placed in the similar pay scale of Rs.110-180/- in the Railways at the relevant time and have been granted revised scales as per the recommendations of the various Pay Commissions from time to time, with all

consequential benefits not later than 15th March, 2008. The writ petition accordingly stands disposed of."

3. Shri P.K. Ghosh, learned counsel for the applicant, submitted that the respondents have implemented ibid judgment of Hon'ble Delhi High Court in this regard through a letter dated 24.02.2012 of Railway Board addressed to all General Manager/CAOs of Railways. The relevant portion from the said letter is reproduced below:-

"The above directions of the Hon'ble High Court have been considered by the Board and in compliance thereof it has been decided to allow pay scale of Rs.110-180 (AS) to Coach Attendants, during the 2nd Pay Commission period instead of pay scale of Rs.75-89 (AS) and the revised pay scales as recommended by successive Pay Commissions during the subsequent period along with all other consequential benefits.

Necessary action to implement the above decision may please be taken immediately and compliance reported within two weeks to Board's office."

4. Shri R.N. Singh, learned counsel for the respondents, submitted that the applicant is seeking refixation of pay and pension of his late father with effect from the year 1960 in terms of Delhi High Court judgment and date of his retirement i.e. 31.03.1995. He argued that in terms of Section 21 (2)(a) of the Administrative Tribunals Act, 1985, this Tribunal cannot adjudicate the matter pertaining to the period of more than three years old prior to the Tribunal coming into existence in the year 1985. He further submitted that as per Circular dated 16.7.1962 (Annexure R-1) the personal file of railway employee is

maintained only for 15 years after his retirement. He said that the applicant's father retired in 1995 and hence by 2010 his records were destroyed. In the absence of such records, the claim cannot be processed. The petitioners in WP(C) No.566/2000 i.e. All India Shramik and Coach Attendants Association & Ors. Vs. UOI & Ors had filed Contempt Case No.311/2009 before Hon'ble Delhi High Court alleging non-compliance of the Hon'ble High Court's judgment dated 04.01.2012 in the said writ petition. He said that the petitioners in the aforementioned writ had not included the name of Shri Gaj Raj Singh (Applicant's father) in the list of Coach Attendants, who were to get benefits of the judgment. He thus submitted that the case of the applicant's father was not considered by the Association itself. The last and final argument by Shri R.N. Singh was that the judgment of Hon'ble Delhi High Court, benefits whereof the applicant is seeking in this OA, was delivered on 07.02.2008 whereas the applicant has approached this Tribunal in the present OA on 03.10.2016. He has been sitting quietly for almost 8 years. He argued that such fence-sitters cannot be given benefits of any judgment in terms of the ratio of law laid down by the Hon'ble Apex Court in the case of **State of Karnataka Versus S.M. Kotrayya** (1996) 6 SCC 267 in para 9.

5. I have gone through the pleadings of the parties and perused the relevant documents.

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.

**(K.N. SHRIVASTAVA)
MEMBER (A)**

/JK/