

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...  
**Order reserved on: 16.08.2018**

**ORIGINAL APPLICATION NO. 060/00946/2017**

**Chandigarh, this the 24<sup>th</sup> day of August, 2018**

...  
**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &  
HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)**

...

1. Gaje Singh aged about 56 years, Ex-APM Bhiwani HO, s/o Sh. Chand Singh, R/o Brijwasi Colony, # Y2902, Bhiwani (Group-C).
2. Satyavir Singh Dahya aged about 52 years, Ex-PA, Tosam s/o Sh. Jugti Ram, R/o H. NO. 830, Sector 9-11, Hisar (Group-C)
3. Rajesh Kathuira SPO aged about 53 years, Bhiwani s/o Sh. Jagat Narain, Division Officer Bhiwani (Group-C).
4. Harish Chander aged about 55 years P.A. Bhiwani H.O. s/o Sh. Laxman Dass, Bhiwani (Group-C).
5. Daya Ram SPM aged about 54 years, Charki Dadri, s/o Sh. Sukh Dev (Group-C),
6. Satbir Morwal, aged about 54 years, PRI (P), Hisar, H.O. Hisar (Group-C).
7. Kishan Singh aged about 58 years Treasurer Bhiwani H.O. Bhiwani (Group-C).
8. Bharat Ram aged about 54 years P.A. Bhiwani H.O. Bhiwani (Group-C).
9. Mrs. Hardevi aged about P.A. Gurgaon H.O. Gurgaon (Group-C).
10. Ramesh Kumar SPM aged about 52 years, Kairu Bhiwani (Group-C).

....APPLICANTS

(By Advocate: Shri Ankur Sidhar proxy for Shri Rajesh Khandelwal )

VERSUS

1. Union of India through its Secretary, Ministry of Communication, Department of Information and Technology, New Delhi.
2. Chief Post Master General, Haryana Circle, Ambala.
3. Superintendent of Post Offices, Bhiwani Division, Bhiwani.
4. Superintendent of Post Offices, Hisar Division, Hisar.
5. Superintendent of Post Offices, Gurgoan Division, Gurgoan.

....RESPONDENTS

(By Advocate: Shri Ram Lal Gupta)

**ORDER****AJANTA DAYALAN, MEMBER (A)**

The present Original Application (O.A.) has been filed by applicant Gaje Singh and 9 others against impugned order dated 16.2.2016 (Annexure A-9) and letter dated 24.7.2017 (Annexure A-12), rejecting their representation for payment of salary and allowances for the period they worked as Postal Assistant (Reserved Trained Pool) at par with regular employees and consequential benefits thereto.

2. The brief facts of the case are that the applicants joined the respondent department as Postal Assistant (RTP) during the period from 1982 to 1984 and become regular on different dates in the years 1983 to 1988. They all are said to have made representation for payment of salary, allowances and other consequential benefits equal to regular employees.

3. The relief is sought based on the order dated 24.12.2014 passed in O.A. NO. 060/01166/2014 earlier filed by the applicants, which was disposed of by a common order by this Tribunal while placing reliance on the order passed in O.A. No 788/HR/2001-**Pradeep Jain & Ors. Vs. UOI & Ors.** (Annexure A-1 colly ), further upheld by the jurisdictional High Court in CWP No. 1466-CAT-2004 vide judgment dated 18.2.2014. The Hon'ble High Court, while upholding the orders of this Tribunal, placed reliance on the judgment rendered in the case of **Jagrit Mazdoor Union (Regd.) vs Telephone Nigam Ltd.**, reported in 1990 (1) SCC 113. The claim of

the remaining applicants in that petition was considered covered and it was held that if some amounts become payable to these applicants after working out the sum as per direction of the Supreme Court as also as per law, the same were to be released to them within a period of 3 months. The matter was agitated by the Government (the respondents in the O.A.) before Hon'ble High Court. In that case, the private respondents i.e. Pradeep Jain and others relied on the judgment of the CAT in O.A. NO. 262 of 1986-

**Binder Ram and Others V Union of India and Others** decided on 29.4.1987 and order dated 13.12.2000 in O.A. NO. 472/HR/1991-

**Des Raj Brar and Ors. v. Union of India and ors.**, for seeking relaxation in bar of limitation as the matter was agitated before CAT after a delay. In Pradeep Jain case (supra) a similar plea was raised, but the same was waived of in view of the fact that in other cases assailed before Hon'able Supreme Court, the benefit of arrear has been given in Jagrit Mazdoor Union case (supra). The Hon'ble High Court observed that the relief in terms of the impugned order dated 31.10.2003 has been granted to the private respondents on parity with the case of Des Raj Brar (supra). The High Court, therefore, desired to know as to how the Government authority can discriminate between employees in the same department identically situated where some will get benefit of larger part of the arrears while others will get lesser part of the arrears when waiving off the aspect of delay, the arrears have been granted in full by the department itself accepting the decision. It was observed that there being no satisfactory explanation to the aforesaid, it would be grave

injustice to the private respondents if they are treated differently in the aforesaid circumstances when the department has accepted the judgment by paying full arrears to identically situated parties and not confining to the period of 3 years prior to filing of O.A. In that view of the matter, the orders of CAT dated 31.10.2003 were upheld by the High Court.

4. The counsel for applicants pleaded that as a consequence to this, an office order was issued on 31.12.2014 (Annexure A-2) for implementing the order dated 24.12.2014. In response to that, respondent no. 4 on 6.5.2015 (Annexure A-4) sought clarification from the applicants seeking some information. This was replied by the applicant on 7.7.2015 (Annexure A-5) alongwith details of service record. However, later the applicants were directed to furnish details of hours, dates and months for which they have performed their duties as RTP if available with them (Annexure A-8). Thereafter vide impugned order dated 16.2.2016, the claim of the applicants was rejected and was reaffirmed vide letter dated 24.7.2017 (Annexure A-12). The counsel for applicants stated that the orders dated 16.2.2016 and 24.7.2017 are illegal and discriminatory as similarly situated persons have already been granted identical relief vide Annexure A-10 colly. Hence the impugned orders deserved to be quashed.

5. The respondents have contested the claim of applicants and have filed written statement. It is stated that the O.A. is not admissible as it is time barred. The applicants are claiming the benefits w.e.f. 1982, 1983 and 1984. Besides, the applicants have

stated that they made representation dated 30.5.2014 and it was on this assertion that this Tribunal in its order dated 24.12.2014 directed the respondents to decide the representation dated 30.5.2014. However, no representation dated 30.5.2014 was made by any of the applicants. The order dated 16.2.2016 was passed by the department in pursuance to the orders of this Tribunal dated 24.12.2014. In any case, representations made after expiry of period of limitation and passing of order thereon cannot extend the period of limitation. Moreover, there are 10 applicants in all. However, orders passed only in respect of applicant no. 1 i.e. Gaje Singh are being challenged. Hence, O.A. preferred in respect of respondents no. 2 to 10 is not maintainable. In addition, dates of joining and dates of regularization of each applicant are different and, therefore, separate orders need to be passed in respect of each of the applicants. Hence the present O.A. in the present form is not maintainable on this account also.

6. The counsel for respondents further submitted that the scheme for engagement of RTA in post offices/RMS offices was introduced in the year 1980. As per this scheme, RTP candidates were to be utilized to meet with the shortage of staff and increased work load as and when necessary, but their employment was not exceed to 8 hours per day and they were paid wages at the rates fixed for per hour. Hence RTP candidates worked on hourly basis subject to requirement and not on regular basis.

7. The counsel for the respondents stated that applicants moved O.A. No. 060/01074/2014 and No 060/01166/2014 claiming that

they were initially recruited as RTP Postal Assistant and later regularized as Postal Assistant and claimed same scale of pay for the period they worked in RTP as the Postal Assistant on the ground that they discharged identical duties. The O.A. NO. 060/01074/2014 was disposed of on 26.11.2014 with the direction to take a view on the pending representation-cum-legal notice by passing a speaking and reasoned order in accordance with law and rules within a period of 3 months. The respondents were also directed to consider the judgment rendered in the case of Pardeep Jain (supra) further affirmed by the Hon'ble High Court, and in case the applicants were not similarly situated then record reasons and communicate the same to the applicants. The other O.A. No. 060/01166/2014 was disposed of on 24.12.2014 on the similar lines giving period of 3 months while not expressing any view on the merits of the case. The competent authority approved implementation of the order which was conveyed to the field formations.

8. The counsel for the respondents further pleaded that the representations seeking implementation of orders of CAT are all of different dates. Two applicants namely Krishan Singh and Hardevi have not made any representation. However, there is no representation dated 30.5.2014 and it has been wrongly pleaded by the applicants that they made representation dated 30.5.2014. Further the period of RTP mentioned in their O.A. does not tally with the period mentioned in their applications. Therefore all applicants were asked to give information vide letter dated 6.5.2014

followed by reminder on 2.7.2015 whether they made such representation and if not, to submit fresh one alongwith complete RTP period and supporting documents. The applicants have not submitted the required information and so they were again directed to submit information on 15.9.2014 as to the details of hours, dates and months and orders on which they performed the duties. But none of the applicant submitted the required particulars. Hence, cause of all applicants was decided vide orders dated 16.2.2016 (Annexures A-9 and R-1 to R-9).

9. The counsel for the respondents stated that accordingly the directions of this Tribunal vide order dated 24.12.2014 have been fully complied with and as the case of the applicants is devoid of merits, the same has been rejected vide speaking order dated 16.2.2016. It is also stated that the benefits given vide Annexure A-10 quoted by the applicants were made due to misinterpretation of judgment in the case of Jagrit Mazdoor Union case (*supra*) and the same have been withdrawn vide letter dated 12.8.2014 (Annexure R-11). As the applicants have failed to submit any authentic record showing that they have actually worked, their contention is devoid of merits. The record of the relevant period is not available with the respondents at this belated stage. Service Books of officials are maintained with reference to their regular appointment in Postal Assistant cadre and do not contain particulars related to their RTP period. Record related to RTP period of applicants is to be maintained by the Post office Bhiwani which has replied that the record for the relevant period is not available with them. Now the

onus is on the applicants to produce the authentic documents in support of their claim.

10. We have heard the learned counsel for the parties, perused the pleading available on record and have given our thoughtful consideration to the matter.

11. The facts of the case are largely not in dispute. There are 10 applicants in all. It is, however, true that orders relating to only one of the applicants (at Annexure A-9 and A-12) are being challenged in the present O.A. and there is no specific challenge to any order relating to any other applicant. Hence, the O.A. in respect of applicants at serial no. 2 to 10 is clearly not maintainable on this ground alone.

12. Further, it is observed that only representation by applicant no. 1 Gaje Singh is on record. No representation by any other applicant is as yet on record of the case and as such the case qua them is not maintainable on this account also. In fact, no application is said to have been received from two of the applicants namely Krishan Singh and Hardevi. Hence the averment to this Tribunal made by the counsel for the applicants that they have represented to the department is misleading to this extent.

13. It is also noted that the facts of the case of Jagrit Mazdoors Union (supra) are distinguishable from the facts in the present case for the reason that that particular case was relating to the regular employees of that department and was with regard to their pay and allowances and retiral benefits as a consequence of Apex Court order dated 29.11.1989. All these employees were regular

employees and none of them was daily wager or hourly rate worker as in the present case. Hence their retiral benefits were clearly defined and specific and were known to the department. In the present case, the applicants were all hourly rate workers and their payments depended on the hours they put in every day. They were all regularized latest by the year 1988 as per their own pleadings. Hence what they are asking for now is benefits relating to period more than 30 years old. None of them have given any particulars about the details of hours, dates and months worked by them inspite of repeated opportunities given to them by the department. They have not come forwarded with these details before this Tribunal even during the course of the pendency of the O.A. Hence, it is unlikely that they would have these details with them. It is also not likely or expected of the department to keep the details of daily wager or hourly rate workers with them for a period of 30 years. Thus the claim of the applicants is vague and non specific and for a period prior to 30 years even if we go by their own pleadings and hence it is not maintainable in law.

14. It is also observed that the services of persons engaged on daily or hourly basis cannot be equated to those under regular employment. Persons under regular employment of the Government not only have greater experience but have greater responsibility and accountability. The mere fact of unlikeness of their discontinuation from services renders that they can be relied upon to a greater extent to complete the work entrusted to them. On the other hand, the persons engaged on hourly basis can be entrusted

only works of lesser responsibility which can be completed in a much shorter span of time. Hence, to say that they perform identical nature of duties as regular workers would not be correct.

15. Above all, we note that the applicants are pleading for benefit for the period pertaining to the years 1982 to 1988. This is over 30 years old period. As per their own averment, the first representations made by them to claim benefits were made from the year 2014. Thus, they kept quite over their claim for over 25 years and never agitated about it before any forum. It is settled law that persons who are not vigilant about their own rights and entitlement and keep quiet for long time cannot be considered entitled to those rights and entitlement for indefinite time. Section 21 of the Administrative Tribunals Act, 1985 clearly provides that the 'Tribunal shall not admit an application' where the cases are beyond the period prescribed therein. In fact, many of the applicants may have by now retired or would be near retirement when they have suddenly waken up to their claim for benefits relating to period prior to their joining the department as regular employees. Besides, no legitimate cause is made out by the applicants for condonation of abnormal delay. Even M.A. for condonation of delay has not been preferred. It is also settled law that any decision taken on representations made beyond limitation period by the Competent Authority do not extend the limitation period which should continue to be counted from the date of original cause of action. In this case there is no dispute that the cause of action, if at all, occurred way back in the years 1982 to

1988 being the dates of their engagement as RTP prior to their entering in government service on regular basis and they never agitated their cause before any forum for all these long years and there is no justifiable cause for such inordinate delay, their case does not hold on this ground alone. Besides, their claims are vague and not specific and differing in factual details. They have even tried to mislead this Tribunal by giving incorrect statement regarding the representations made by them before the department as discussed in preceding paragraphs and as such are not before this Tribunal with clean hands.

16. In view of above discussion, the O.A. is found to be barred by limitation and is also without any merit and is accordingly dismissed with no order as to costs.

**(AJANTA DAYALAN)**  
**MEMBER (A)**

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

**Dated: 24.08.2018**

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