

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00849/2015

Reserved on : 25.04.2019
Pronounced on: 30.04.2019

C O R A M

HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Vinay Bihari Singh, Son of Late Braj Kishore Singh, Commercial Supervisor, East Central Railway, Lahiriasarai (Bihar).

.... Applicant

- By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Union of India, through the General Manager, East Central Railway, Hajipur, District- Vaishali (Bihar).
2. The General Manager (Personnel), East Central Railway, Hajipur, District- Vaishali (Bihar).
3. The Chief Commercial Manager, East Central Railway, Hajipur, District- Vaishali (Bihar).
4. The Divisional Railway Manager, East Central Railway, Samastipur (Bihar).
5. The Senior Divisional Commercial Manager, East Central Railway, Samastipur (Bihar).
6. The Senior Divisional Personnel Officer, East Central Railway, Samastipur (Bihar).
7. The Senior Divisional Financial Manager, East Central Railway, Samastipur (Bihar).

.... Respondents.

By Advocate: - Mr. D.K. Verma

O R D E R

Per Dinesh Sharma, A.M:- The prayer of the applicant in this OA is for appropriate direction upon the respondents to extend the same and similar benefits as were given by order dated 21.11.2008 passed by this Tribunal in OA 95/2001. This decision was upheld by the Hon'ble Patna High Court on

25.11.2009 and implemented by the respondents vide order dated 29.11.2010 in favour of the applicants therein. The applicants after getting to know about the said order/judgment, submitted representations on 06.04.2015 seeking extension of same benefits at par with other co- appointees against the same notification, but no relief has been granted/reply given by the respondents. The applicant has also cited the judgment of Hon'ble Supreme Court in cases reported in 1985(2) SCC 648 **Indra Pal Yadav Vs. UOI**, 1975(4) SCC 14 **Lal Berry Vs. CCE**, 2006(2) SCC 745 **State of Karnataka Vs. C. Lalitha** where the Hon'ble Apex Court has directed for granting of relief to other similarly situated employees without forcing them to go to courts for similar benefits.

2. The respondents have denied the claim of the applicant mainly on the ground of it being from a person belonging to a category different from the one to which the earlier order of the Tribunal in OA 95/2001 applied. They have also alleged that the request is very much barred by period of limitation and anyone who sleeps over their rights cannot claim any benefit even if it is legally due.

3. We have gone through the pleadings and heard the learned counsels of the parties. The main issue here is (a) whether the issue involved in this case is exactly similar to the one decided in OA 95/2001 and (b) whether the same relief can be granted even though it was not raised earlier. We find that though the issue involved in the earlier judgment was that a person should be given seniority according to the order of merit secured in the examination through which a batch of persons were recruited irrespective

of the date of appointment. The applicant in this case has claimed for giving him past seniority and benefit of notional pay according to that seniority. Thus, it is clear that the issue involved in both these cases is more or less the same. However, as regards (b) we find that the applicant did not raise the issue either at that time when it was raised by others in the year 2001 or in the year 2009 when the Hon'ble High Court of Patna upheld the order of this Tribunal or even in the year 2010 when the order of this Tribunal was implemented. It clearly shows that the applicant has not been vigilant in seeking protection of what could have been his legitimate right. The judgment of Hon'ble Supreme Court (quoted in para 1 above) is a direction to the authorities not to push persons to the court but to grant them benefits of any decision without waiting for litigation. That judgment may not apply to the facts involved in this case since grant of seniority to some may come at the cost of reduction in seniority to others and thus it is not a unilateral grant. It is also alleged by the respondents that though the persons involved in OA 95/2001 and in the current OA one recruited following the same employment notice it was for appointment to different category of posts. The applicant here belongs to a different category than the one which obtained the order of seniority under OA 95/2001. Thus, any relief in the present case where the applicant is also reportedly retired, for re-fixing of seniority in a matter where the cause of action arose about 24 years before (going by the year of examination) will not be correct. The OA is, therefore, dismissed. No order as to costs.

[Dinesh Sharma]
Administrative Member

[Jayesh V. Bhairavia]
Judicial Member

Srk.