

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**MA No.1179/2019 in
OA No. 2733/2018**

New Delhi, this the 22nd day of April, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Uma Shankar Singh Yadav
S/o Shri D.N. Yadav
Aged about 56 years
Principal Chief Engineer,
South Western Railway,
Hubballi – 580 023.

Resident of:

Bungalow No.1671,
Golf Links Railway Officers Colony,
Keshwapur Club Road,
Hubballi, Karnataka-580023.

.. Applicant

(By Advocate : Ms. Shikha Sapra with Shri Devesh Tripathi)

Versus

1. Union of India
Through the Secretary Railway Board,
Ministry of Railways
256-A, Raisina Road
Central Secretariat,
New Delhi-110001.

2. Secretary
Department of Personnel & Training
North Block, Central Secretariat,
New Delhi-110001.

.. Respondents

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman

In the O.A., the applicants sought for a direction to the respondents to amend the rules governing the seniority in the Ministry of Railways by way of issuing an Office Memorandum;

and not to publish the panel of General Manager for the year 2018-19. Other ancillary reliefs were also prayed.

2. When the O.A. came up for hearing on 02.08.2018, a specific question was put to the learned counsel as to how the respondents can be compelled to amend the rules. In other words, it was pointed out that if the applicant is not satisfied with the rules, which are in force now, they have to challenge the rules to the extent they are not tenable in law and if the rules are valid, he is to be governed by them.

3. At that stage, learned counsel for the applicant sought permission of the Tribunal to withdraw the O.A. Permission was granted and the O.A. was dismissed as withdrawn on 02.08.2018.

4. The applicant filed a Writ Petition before the Hon'ble High Court. The circumstances under which the O.A. was withdrawn were taken note of. On 12.02.2019, the High Court permitted the applicant to withdraw the Writ Petition to move an application for revival of the O.A. Accordingly, the present M.A. is filed.

5. We heard the learned counsel for the applicant in detail.

6. Reliance is placed on a judgment of the Hon'ble Supreme Court in **L. Chandra Kumar vs. Union of India**, (1997) 3 SCC 261. There is absolutely no doubt that the Supreme Court in **L. Chandra Kumar's** case held that the Tribunal does have the competence to decide the constitutionality of rules that are

challenged before it. However, this Tribunal did not refuse to entertain the O.A. on the ground that it does not have the competence to decide the legality of the rules. The fact of the matter is that the prayer in the O.A. is to compel the respondents to amend the rules and on applying the general principles of law, we expressed a view that such a prayer is virtually impermissible. It is on account of that, the O.A. was withdrawn.

7. After arguing the M.A. at some length learned counsel sought permission of the Tribunal to amend the prayer in the O.A. When the entire body of the O.A. is prepared in support of the prayer for compelling the respondents to amend the rules, the amendment, to take in its fold, the challenge to existing rules would become almost impossible. Such a request cannot be accepted unless the very principles governing the pleadings are compromised.

8. When the same was pointed out, learned counsel for the applicant did not press the MA and sought permission to file a fresh O.A. The M.A. is accordingly dismissed as not pressed. The applicant shall have option to file a fresh O.A. for the purpose, if advised.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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