

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO.2623 of 2003

New Delhi, this the 25th day of October, 2004

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

1. Shri Sita Ram Prasad
S/o Shri Roopal Ram,
Working as Store Issuer,
Under Inspector of Works,
Baroda House,
Northern Railway,
New Delhi.
2. Shri Ramesh Chand,
S/o Shri Daulat Ram,
Clerk,
Under Chief Crew Controller,
Loco Running,
Northern Railway,
Ghaziabad.
3. Chand Kumar
s/o Shri Sohan Lal,
working as Pump Driver,
under S.S.(P.S.),
Delhi Kishan Ganj,
New Delhi.

(By Advocate: Shri Amit Anand)

...Applicants

versus

Union of India : through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.

(By Advocate : Shri Shalindra Tiwari)

...Respondents

ORDER (ORAL)

Heard the learned counsel for the parties.

2. Claim of applicants, who were working as casual labourers, is for grant of arrears. This has been set at rest by the Hon'ble High Court in CWP No.5247/1997 in the matter of *Shri Ram Prasad and others vs. Ganpati Sharma and another* decided on 27.10.1999. Learned counsel of the applicants contends that in 1993 refusal of the respondents to accord the benefits to the applicants

gave rise to a fresh cause of action. He accordingly states that once the decision of this Court in OA No.1528/1997 in the matter of *Banwari Lal vs. Union of India and others* decided on 31.10.1997, who were similarly situated as petitioners, has been affirmed in C.W. No.2463/1998 vide order dated 16.3.2000 by the High Court of Delhi has an effect of attainment of finality of the issue.

3. Learned counsel of the respondents vehemently opposed the application on the ground of limitation by resorting to Rule 21 (2) (a) of the Administrative Tribunals Act, 1985 stating that if cause of action has arisen preceding three years of filing of the OA, this Court has no jurisdiction. He referred to two decisions of the coordinate Benches in OA No.2898/2003 decided on 23.8.2004 in the matter of *Govind Singh and others vs. Union of India and others* and in OA No.2967/2004 decided on 12.10.2004 in the matter of *Jeeraj and others vs. Union of India and others*. Learned counsel of respondents further states that particulars of working have not been furnished to the respondents and moreover, no representation has been filed by the applicants. As such the OA is barred under Section 20 of the Administrative Tribunals Act, 1985.

4. I have carefully considered the rival contentions of the parties. It is trite law that the decision of the Tribunal, which does not give cognizance of the decision of the Hon'ble High Court, is per incurium and is not a precedent to follow. I find that in OA No.2253/2004 decided on 21.9.2004 in the matter of *Shri Mahtab Singh and others vs. Union of India and others*, a direction had been issued on the basis of the decision of the High Court in the case of *Ram Prasad and Others vs. Shri Ganpati Sharma and Anr.* decided on 27.10.1999 to the respondents therein to consider the claim of the applicants therein for accord of arrears. Since the decision of the High Court has been taken cognizance while deciding the aforesaid O.A., I follow the same.

5. The objection raised by the learned counsel of the respondents that the applicants, without resorting to Section 20 of the A.T. Act, have come straightway before this Tribunal is overruled as after attaining the finality of the issue involved and granting the benefit to the applicants therein, the respondents, as a

model employer, should have accorded the same benefit to the similarly situated persons like applicants.

6. In the result, OA is disposed of with a direction to the respondents that in the event the applicants furnish the material record of their working as labourers, their claim for grant of arrears shall be worked out on the basis of the decision in the case of *Banwari Lal vs. Union of India and others* in OA No.1528/1997 decided on 31.10.1997 and a detailed and speaking order shall be passed within a period of two months from the date of furnishing of the material record of their working by the applicants and in the event, the applicants' records are found to be justified, the applicants should be reimbursed the same within one month thereafter. No costs.

S. Raju
(SHANKER RAJU)
MEMBER (J)

/ravi/