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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.2967 /2003

New Delhi this the 12th day of October, 2004

Hon'ble Mr. S.K. Malhotra, Member (A)

1. Shri Jeeraj,
S/o Shri Puran,
Cabinman,
Office of Station Superintendent,
Northern Railway,
Ghaziabad
 2. Shri Chattar Pal,
S/o Shri Jaagram,
Pointsman, Office of Station Superintendent,
Northern Railway,
Ghaziabad.
 3. Shri Amar Singh,
S/o Shri Jodh Singh,
Cabinman, Office of Station Superintendent,
Northern Railway,
Ghaziabad.
 4. Shri Om Prakash,
S/o Shri Siya Ram,
Pointsman, Office of Station Superintendent
Northern Railway,
Ghaziabad
 5. Shri Surjit Singh,
S/o Shri Yad Ram,
Cabinman, Office of Station Superintendent,
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Northern Railway,
Ghaziabad.

.....Applicants

(By Advocate Shri P.S. Mahendru)

Versus

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

....Respondents.

(By Advocate : Shri Shailender Tewari)

ORDER

Shri S.K. Malhotra, Member (A).

This OA has been filed by the applicants with the request that their pay should be refixed with reference to the pay that should have been drawn by them in regular pay scales on their attaining temporary status.

2. The applicants are Group 'D' employees who were engaged as Casual Labourers during the period 1975-76. They acquired temporary status after completion of 120

(Signature)

days, as per rules during the period 1975-77. Later, they were regularized in 1980. It has been stated that as per Para 2005 of the IREM, Vol.II, Casual Labourers treated as temporary are entitled to regular pay scales. However, the regular pay scale was not granted to them although they attained the temporary status in 1975-77. It thus resulted in wrong fixation of their pay on their regularization in 1980 and consequently, they have been getting lesser pay every month. This would ultimately affect their pensionary benefits also.

3. The respondents in their counter affidavit have stated that the applicants neither submitted any representation nor claimed any arrears of pay during all these years. The applicants have also not complied with the requirement of Section 20 of the Administrative Tribunals Act, 1985 according to which they should have availed of all the remedies available to them under the rules, for redressal of their grievances. Their claim is more than 28 years old. In this connection, a reference has also been made to the judgment of the Hon'ble Supreme Court in the case of **Rattan Chandra Sammanta Vs. UOI and Others** (JT 1993 (3) SC 418) in which it was held that "delay deprives a person who has lost his remedy by lapse of time, loses his right as well." In another case of **Bhoop Singh Vs. UOI and Others** (JT 1992(3) SC 322) it was held that "it is expected from a Government servant who had a legitimate claim to approach the Court for the relief he seeks within a reasonable period, assuming no fixed period of limitation applies."

4. I have heard both the learned counsel for the parties and have also gone through the pleadings.

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5. During the course of arguments, the learned counsel for the applicants emphasized that the fixation of wrong salary is a continuous cause of action. The applicants who attained the temporary status in 1975-77 were entitled to the regular scales of pay, which was granted to them only on their regularization in 1980. The applicants have, therefore, been getting less salary than their entitlement from 1975-77 onwards. On account of the above, their salary was also fixed at lower level in 1980. Thus, there has been a recurring loss to them which will adversely affect their pensionary benefits also. They should not, therefore, be denied their legitimate claim, on account of limitation and delay. In support of his case, he cited several judgments of the Tribunal like 2002 (2) ATJ 434 in the case of **Lekh Raj Singh Vs. UOI**, (2000 (1) ATJ 56), in the case of **Narendra Singh Naruka and Others Vs. UOI**. Judgment by the Hon'ble Supreme Court in the case of **Jai Chand Sawhney Vs. UOI** 1969 (3) SCC 642, was also referred to.

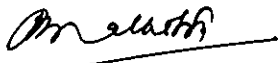
6. On the other hand, the learned counsel stated that this case was squarely covered by the judgment dated 23.8.2004 of this Tribunal in the case of **Govind Singh and Others** in OA No.2898/2003 in which it was held that this Tribunal has no jurisdiction to take cognizance of a cause of action which had arisen three years prior to establishment of this Tribunal, on 1.11.1985 as per Section 21 (2) of the Administrative Tribunals Act, 1985. In other words, this Tribunal has no jurisdiction in respect of any case in which the cause of action had arisen prior to 1.11.1982. In this judgment reliance was also placed on the ratio of the judgment in the case of **Brij Kishore & Others Vs. UOI and Others** in OA No.2394/2001.

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7. It is indisputable fact that cause of action in the instant case had arisen during the years 1975-77 i.e. almost 27 years back. The applicants did not raise this issue during all these years and according to the respondents, they did not even give any representation to the respondents for redressal of their grievances. In view of a very specific provision in Section 21 (2) of the Administrative Tribunals Act, 1985, it will not be appropriate to make any exception in a particular case. Otherwise, it will open pandora box of all such cases. Besides, there have been judgments, as mentioned above, to the effect that such cases are outside the jurisdiction of this Tribunal. In the judgments cited by the learned counsel for the applicants in support of his contention, this specific point regarding the jurisdiction of this Tribunal under Section 21 (2) of the Act was neither raised nor adjudicated upon and as such, these judgments will not be applicable in the present case.

8. In view of the above, the OA is found to be without any merit and the same deserves to be dismissed. It is accordingly dismissed, without any order as to costs.


(S.K. MALHOTRA) 12/10/04
Member (A)

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