

K.C. SHARMA AND ORS.

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v.

UNION OF INDIA

JULY 25, 1997

[J.S. VERMA, C.J., M.M. PUNCHHI, S.C. AGRAWAL,
DR. A.S. ANAND AND S.P. BHARUCHA, JJ.]

B

Service Law :

Indian Railways Establishment Code—Rule 2544—Railway employees retired between 1.1.73 and 5.12.88—Notifications amended Rule and reduced percentage limit of running allowance while calculating average emoluments, by retrospective operation—Tribunal quashed notifications as they adversely affected employees—Application by similarly placed employees for same relief—Rejected by the Tribunal as time barred—Held, Tribunal should have condoned the delay and given the relief.

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Appellants had retired from Northern Railway after 1.1.73 but before 5.12.88. They were aggrieved by notification dated 5.12.88 which amended Rule 2544 of the Indian Railway Establishment Code reducing the percentage limit of the running allowance, taken for calculation of pension, from 75% to 45% for the period between 1.1.73 to 31.3.79 and to 55% from the period, 1.4.79 onwards, i.e. retrospectively.

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Full Bench of the CAT quashed the said notification. The appellants, who were similarly placed, filed a representation before the Railway Administration but were not successful. Later on, they filed an application before the Tribunal seeking similar relief as had been given to the similarly placed employees. The application was dismissed on the ground that it was barred by limitation. Hence this appeal.

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Allowing the appeal, this Court

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HELD : 1.1. The correctness of the decision of the Full Bench of the Tribunal has already been affirmed by this Court. [89-C]

1.2. Having regard to the facts and circumstances of the instant case, the Tribunal should have condoned the delay and appellants should have

H

A been given the relief as was granted by the Full Bench of the Tribunal.

[89-D]

1.3. The delay in filing the O.A. before the Tribunal is condoned and the application is allowed. The appellants would be entitled to the same relief in the matter of pension as had been granted by the Full Bench of the Tribunal. [89-D]

Chairman, Railway Board & Ors. v. C.R. Rangadhamiah & Ors., [1997] Supp. 3 SCR 63, relied on.

C CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5082 of 1997.

From the Judgment and Order dated 25.7.94 of the Central Administrative Tribunal, New Delhi in O.A. No. 774 of 1994.

J.M. Khanna Adv. for the Appellants.

D The Judgment of the Court was delivered by

S.C. AGRAWAL, J. Delay in filing of the Special Leave Petition is condoned.

E Special Leave granted.

This appeal is directed against the judgment of the Principal Bench of the Central Administrative Tribunal (hereinafter referred to as 'the Tribunal') dated July 25, 1994 in O.A. No. 774 of 1994. The appellants were employed as guards in the Northern Railway and they retired as guards during the period between 1980 and 1988. They felt aggrieved by the notifications dated December 5, 1988 whereby Rule 2544 of the Indian Railways Establishment Code was amended and for the purpose of calculation of average emoluments the maximum limit in respect of Running Allowances was reduced from 75% to 45% in respect of period from January 1, 1973 to March 31, 1979 and to 55% for the period from April 1, 1979 onwards.

H The validity of the retrospective amendments introduced by the impugned notifications dated December 5, 1988 had been considered by the Full Bench of the Tribunal in its judgment dated December 16, 1993 in O.A. Nos. 395-403 of 1993 and connected matters and the said notifica-

tions in so far as they gave retrospective effect to the amendments were held to be invalid as being violative of Articles 14 and 16 of the Constitution. Since the appellants were adversely affected by the impugned amendments, they sought the benefit of the said decision of the Full Bench of the Tribunal by filing representations before the Railway Administration. Since they failed to obtain redress, they filed the application (O.A. No. 774 of 1994) seeking relief before the Tribunal in April 1994. The said application of the appellants was dismissed by the Tribunal by the impugned judgment on the view that the application was barred by limitation. The Tribunal refused to condone the delay in the filing of the said applications.

The correctness of the decision of the Full Bench of the Tribunal has been affirmed by this Court in *Chairman, Railway Board & Ors. v. C.R. Rangadhamiah & Ors.*, Civil Appeals Nos. 4174-4182 of 1995 and connected matters decided today.

Having regard to the facts and circumstances of the case, we are of the view that this was a fit case in which the Tribunal should have condoned the delay in the filing of the application and the appellants should have been given relief in the same terms as was granted by the Full Bench of the Tribunal. The appeal is, therefore, allowed, the impugned judgment of the Tribunal is set aside, the delay in filing of O.A. No. 774 of 1994 is condoned and the said application is allowed. The appellants would be entitled to the same relief in the matter of pension as has been granted by the Full Bench of the Tribunal in its judgment dated December 16, 1993 in O.A. Nos. 395-403 of 1993 and connected matters. No order as to costs.

A.Q.

Appeal Allowed.