

K.C. Sharma & Ors vs Union Of India & Ors on 25 July, 1997

Equivalent citations: AIR 1997 SUPREME COURT 3588, 1997 (6) SCC 721, 1997 AIR SCW 3699, 1997 (5) SCALE 223, (1997) 7 JT 58 (SC), 1997 (7) JT 58, 1997 (2) UJ (SC) 719, 1998 (1) SERVLJ 54 SC, (1998) 1 LABLJ 57, (1997) 3 SCT 641, (1997) 4 SERVLR 774, (1997) 7 SUPREME 40, (1997) 5 SCALE 223, (1998) 1 APLJ 52, 1998 SCC (L&S) 226, (1998) 2 LAB LN 69

Bench: M.M. Punchhi, S.C. Agrawal, S.P. Bharucha

PETITIONER:

K.C. SHARMA & ORS.

Vs.

RESPONDENT:

UNION OF INDIA & ORS.

DATE OF JUDGMENT: 25/07/1997

BENCH:

M.M. PUNCHHI, S.C. AGRAWAL, A.S. ANAND, S.P. BHARUCHA

ACT:

HEADNOTE:

JUDGMENT:

THE 25TH DAY OF JULY, 1997 Present:

Hon'ble the Chief Justice Hon'ble Mr. Justice M.M.Punchhi Hon'ble Mr. Justice S.C.Agarwal Hon'ble Dr.Justice A.S.Anand Hon'ble Mr.Justice S.P.Bharucha J.M. Khanna, Adv. for the appellants.

J U D G M E N T The following Judgment of the Court was delivered; S.C. AGARWAL, J. :-

Delay in filing of the Special Leave Petition is condoned.

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.

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. No. 395-403 of 1993 and connected matters and the said notifications 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 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. Rangadhamaiah & 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 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.