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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4931/2017 & C.M. Nos.21321-21322/2017**

Date of Decision: 10th October, 2017

UNION OF INDIA & ORS

..... Petitioners

Through: Mr.Jagjit Singh, Adv. with
Ms.Rashmi Malhotra, Adv.,
Mr.Himanshu Kaushik, Adv. &
Mr.Preet Singh, Adv.

versus

V.K. SONI & ORS

..... Respondents

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

VIPIN SANGHI, J

1. In terms of the last order, the petitioners have filed an additional affidavit. We have heard learned counsel for the petitioners and proceed to dispose of the present writ petition.

2. The petitioner has assailed the order dated 2nd August, 2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No.3666/2012 & O.A. No.558/2013. The said Original Applications had been preferred by the respondents who are diploma

holders and had been appointed as Sub Overseer Mistry (SOM) in the petitioner-Northern Railway. They approached the Tribunal with the claim that they should be granted the pay scale of Rs.1400-2300 in place of the pay scale of Rs.1200-2040 w.e.f. 1st April, 1986. They premised their claim on the decision of the Tribunal in O.A. No.1684/2000 ***Mam Chand & Ors. Vs. Union of India through the General Manager, Northern Railway, Baroda House & Ors.*** wherein the applicant in that case had been granted the pay scale of Rs.1400-2300 notionally w.e.f. 1st April, 1986. The writ petition preferred by the petitioner-Railways against the said decision in the case of ***Mam Chand & Ors. (supra)*** vide WP (C) No.5882/2000, was dismissed by this Court on 10th August, 2010 and the Special Leave Petition preferred by the petitioners herein before the Supreme Court was also dismissed on 29th August, 2011.

3. The relief granted to ***Mam Chand & Ors. (supra)*** was on the premise that in accordance with the Indian Railway Establishment Manual, they were, while serving in temporary status, entitled to the same pay scale as was admissible to the regular employees holding the same position.

4. Pertinently, Mam Chand and others did not hold diplomas yet they were granted the same pay scale of Rs.1400-2300 since they were discharging duties of SOMs. It was, accordingly, directed that their pay be fixed in the pay scale of Rs.1400-2300 w.e.f. 1st January, 1986 when the Fourth Pay Commission Report was implemented.

5. Since the respondents preferred their Original Applications only in 2012-2013 as aforesaid, the Tribunal by following the decision in ***Mam Chand & Ors. (supra)*** allowed the said Original Application while making it clear that they would be entitled to notional fixation of their pay in the pay scale of Rs.1400-2300 w.e.f. 1st January, 1986 but the arrears were granted only from the date of filing of the Original Applications.

6. The submission of Mr.Singh, learned counsel for the Petitioner is that similarly placed employees namely Sh.Satish Kumar Sharma, Sh.Manohar Balani, Mr.Arun Kumar Gupta, Mr.Yogesh Kumar, Mr.Raghunath Singh & Mr.Manjoor Ali, had approached the Jodhpur Bench of the Tribunal by preferring OA No.359 of 1989 and in the said Original Application, they had claimed the grade of Rs.1400-2300 apart from seeking regularization on the basis that they were

qualified diploma holders serving as SOMs. The Tribunal had disposed of the said Original Application with the direction to the Railways to frame a scheme within six months for the purpose of regularization. Consequently, the petitioner had issued the order dated 9th September, 1994 regularizing the services of 41 SOMs/Mistry Works including the Respondent herein, and granting them the grade of Rs.1400-2300 with effect from the said date. The submission of Mr.Singh is that since the respondents have been granted the grade of Rs.1400-2300 w.e.f. 9th September, 1994, they were not entitled to now claim the said grade notionally w.e.f. 1st January, 1986.

7. We do not find any merit in the submission of Mr.Singh. This is for the reason that the respondents were not parties in O.A. No.359/1989 preferred before the Jodhpur Bench of the Tribunal. Thus, even if it were to be assumed that, the Tribunal had declined for the grant of grade of Rs.1400-2300 to the applicants before it w.e.f. 1st January, 1986 and they were granted the grade only w.e.f. 9th September, 1994, the said decision did not bind the respondents as they were not parties in the said proceedings. In our view, the respondents were entitled to be treated in the same manner as Mam

Chand and others. In fact, we notice that Mam Chand and others who have been granted the scale of Rs.1400-2300 notionally w.e.f. 1st January, 1986, were not even qualified Diploma holders like the respondents. In these circumstances, the respondents were certainly entitled to notional fixation of their pay in the scale of Rs.1400-2300 w.e.f. 1st January, 1986. The Tribunal has restricted the actual relief to the respondents with effect from the date of filing of the Original Application.

8. In these circumstances, we find no reason to interfere with the impugned order.

The writ petition is dismissed.

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9. In view of the writ petition having been dismissed, these applications do not survive for adjudication and are dismissed.

**(VIPIN SANGHI)
JUDGE**

**(REKHA PALLI)
JUDGE**

OCTOBER 10, 2017/aa