

SUPREME COURT OF INDIA

Union of India (Uoi)

Vs.

Kailash

(G Nanavati and S Quadri JJ.)

30.03.1998

ORDER

1. Leave granted. Heard learned counsel for the parties. Learned counsel for the appellants submitted that the point raised in this appeal is clearly covered by the decision of this Court in Krishena Kumar v. Union of India, and the Tribunal was wrong in taking a contrary view relying upon the decision of this Court in R. Subramaniam v. Chief Personnel Officer, Central Rly., Ministry of Railways, . In R. Subramaniam (Supra) what had

happened was that benefit of the order passed in his favour was not given to him even though SLP filed by the Union of India against it was dismissed and the review application filed by it thereafter was also dismissed. R. Subramaniam therefore filed a writ petition which came to be allowed. That case was thus decided on its own facts. The Tribunal was therefore not right in deciding the respondent's application in his favour by following that decision. Realising this difficulty in this way, learned counsel for the respondent tried to support the order of the Tribunal with the decision of this Court in Union of India v. D.R.R. Saslri, . That case also was decided on facts special to it. This Court refused to interfere with the order of the Tribunal because the Union of India had failed to explain why the benefit, which was given to K.R. Kasturi was not given to D.R.R. Sastri even though his case was similar. Obviously the two-Judge Bench would not have intended to take a view contrary to what was held by the Constitution Bench of five Judges in Krishena Kumar Case (Supra). Nor would it have intended to lay down that because a wrong benefit is given to one, similar benefit is required to be given to others similarly situated as denial of the same would amount to discrimination violative of Article 14 of the Constitution. Therefore, D.R.R. Sastri Case

(Supra) has to be regarded as a case decided on its special facts.

2. Following the decision in Krishena Kumar Case (Supra) we allow this appeal and set aside the order passed by the Central Administrative Tribunal, Calcutta Bench with the result that the application filed by the respondent before the Tribunal stands dismissed.