

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A./~~TX~~ No. 528/1995

Decided on: 27/7/95

Shri Mantha Krishan MurthyApplicant(s)

(By Shri D.R. Roy Advocate)

Versus

Secretary, Railway BoardRespondent(s)
and Others

(By Shri None Advocate)

CORAM:

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

THE HON'BLE SHRI

1. Whether to be referred to the Reporter or not?
2. Whether to be circulated to the other Benches of the Tribunal?

(K. MUTHUKUMAR)
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 528 of 1995

NEW DELHI THIS THE 2nd DAY OF JULY, 1997

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

(23)

Shri Mantha Krishan Murthy
R/o E-8, Poorty Apartments,
Vikas Puri,
New Delhi.

...Applicant

By Advocate Shri D.R. Roy

Versus

1. Secretary,
Railway Board,
Rail Bhawan,
New Delhi.

2. General Manager,
South Eastern Railway,
Garden Reach,
Calcutta-700 043.

3. Chief Engineer (S&C),
S.E. Railway,
Waltair-539 015.

...Respondents

None for the respondents.

ORDER

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Applicant was serving in the Engineering Department of the South Eastern Railway from 12.12.1957. On 18.10.1979, he joined the Rail India Technical and Economic Services (RITES for short) and he got absorbed permanently in the aforesaid Undertaking of the Government of India with effect from 18.10.1982. Office order in this behalf was issued by the respondents only on 14.5.86 although the absorption was made effective from 18.10.1982 retrospectively. The applicant opted for receiving a lump-sum amount in lieu of pension in accordance with the Railway Pension Rules, then in force. He asserts that as the respondents had not taken any action till October,

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1989, he revised his option on 24.10.89 by expressly writing to the Head of the Office. He asserts that this revision of option was fully in accordance with the Rule 1207(i) of the Railway Pension Rules, 1950. According to him, he was required to be sent for medical examination before the sanction of full lump-sum value of commuted pension, but as this was not done by the respondents, he revised his option to draw pension but under the normal rules without commuting the full value of pension. The applicant contends that he was neither allowed to appear before the medical authority nor was he paid full commuted value of pension. He has, however, admitted that he has been paid pension from 19.10.1982 to 31.5.93 in two instalments at the monthly rate, as determined by the respondents.

2. The grievance of the applicant is that he is entitled to receive regular monthly rate of pension on the basis of his revised option whereas, the respondents have denied him the benefit of regular monthly pension and have taken the stand that he is entitled to receive lump-sum payment equal to 100% commuted value of pension on the basis of his original option. He has, therefore, filed this application after his representations have not met with any desired results.

3. The respondents assert that although the communication of his retirement with effect from 18.10.1982 was issued by their order dated 14.5.1986, the applicant should have exercised his revised option within 6 months of this order. The applicant had already opted to receive commuted value of his full pension and did not revise the

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aforesaid option within the period six months. In his letter dated 24.10.1989, he had alleged that due to inordinate delay in settling the full commuted value of pension, he was revising his option to normal commutation of 1/3rd of his pension. He has, however, stated that if the respondents compensate the loss by paying interest at 12% on the full commuted value of pension, he would have no objection to have the commutation of full pension. The respondents submit that apart from the delay in revising the option, his letter dated 24.10.1989 was also conditional. Again in August, 1993 (Annexure R-3), he had requested the respondents to process the papers for 100% commutation in his favour. In addition to this, the respondents also maintain that in the original pension papers submitted by him in Form No.28, he had clearly indicated that he was applying for full commutation of pension. The respondents assert that the applicant was trying to avail the benefits of the 4th Pay Commission with effect from 1.1.1986 and was trying to take advantage of this by citing the respondents letter dated 16.5.86 in which his retirement from Railway service and absorption in RITES w.e.f. 18.10.1982 was notified. In the light of this, the respondents have strongly contested the claim of the applicant for regular pension.

4. When the matter came up for hearing, the learned counsel for the applicant argued on the pleadings. Despite several opportunities, the counsel for the respondents was not present. The case was closed and the orders were reserved.

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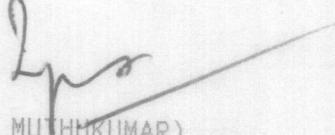
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5. I have heard the learned counsel for the applicant and also perused the pleadings of the parties.

6. It is an admitted position that the applicant retired from Railways' on 18.10.1982. No doubt, the order of his retirement was communicated on 16..5.1986 with retrospective effect. His application challenging the order dated 16.5.1986 giving retrospective effect to his date of retirement was separately dismissed by this Tribunal. The fact that there was a delay in submitting his revised option and that he had not submitted it within 6 months from the date of notification of the order dated 14.5.1986, is not denied by the applicant. He only submits that the respondents having caused a delay of 4 years, were expecting the applicant to opt within 6 months. This, however, does not alter the position that the facility of revised option was not availed of by him within the relevant period, if he had so desired. Therefore, there is nothing arbitrary or illegal in the respondents proceeding on the basis of his earlier option for commutation of his full pension. He has also reiterated his request for commutation of full pension in his letter in August, 1993 (Annexure R-3), as pointed out by the respondents. The applicant has filed this application in 1995. The respondents contend that no medical examination was required in case the applicant opted for 100% commutation of pension. In the meanwhile, the Railway Servants (Pension) Rules, 1993 have also come into force. In the light of this position, the applicant's claim for regular monthly pension from the date he retired in 1982 cannot be sustained.

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7. In the result, I find that there is no merit in this application. The application is, therefore, dismissed. There shall be no order as to costs.



(K. MUTHUKUMAR)
MEMBER (A)

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