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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 605/1997

New Delhi, this 16th day of October, 1997

Hon'ble Shri S.P. Biswas, Member(A)

Shri Syed Mohd. Farooq
B-56, Swami Nagar
New Delhi

Applicant

(By Advocate Shri P.L. Mimroth)

versus

Union of India, through

1. General Manager
Central Railway, Bombay VT

2. Divisional Railway Manager
Central Railway, Jhansi .. Respondents

(By Advocate Shri B.S. Jain)

ORDER(oral)

The short question for determination is whether the applicant, having been removed from service with effect from 2.2.87, can come back to the Tribunal for second round of litigation for claiming the benefits in respect of residual dues on pension and other accounts *particularly* "compassionate grant".

2. During the course of the arguments, learned counsel for the applicant argued that the applicant's claim for compassionate pension is covered under para 309 and 310 of the Railway Pension Rules, 1950 as a special and exceptional case. This ^{is} _{an} discretionary power under the appropriate administrative authority for award of compassionate grant in deserving cases provided compassionate grant/allowances awarded to railway servant shall not exceed 2/3rd of the pensionary benefits which would have been admissible to him if he had retired on medical grounds. The applicant would further claim that he had sent representations in November, 1989, September, 1990, March, 1991 and April,

1991 but the respondents have not cared to send any reply.

3. In the counter, learned counsel for the respondents argued that the application is time barred and also hit by principles of constructive resjudicata. The applicant has not cared even to file an application for condonation of delay. That apart, the applicant was informed on 13.2.91 through the impugned order that he should send the prescribed forms, duly filled in, for refund of his provident fund etc. The applicant, however, decided to remain silent for another five years.

4. Learned counsel for the respondents also submitted that the applicant had earlier filed OA 1686/92 and that was dismissed. The SLP thereof was also dismissed by the Hon'ble Supreme Court. To our limited question as to whether the issues raised herein were also considered by the Tribunal in the earlier OA, the learned counsel drew a blank. On the contrary, we find from the judgement of Tribunal dated 14.6.93 that the applicant had received the same impugned order dated 13.2.91 and has made the claim apparently on the same issue. However, in the background of the applicant's failure to come out with ~~the~~ case alongwith details of the past records, this Tribunal cannot make a roving enquiry and enter into a finding based on unsubstantiated materials before it. (See Hamsaveni Vs. State of Tamil Nadu (1994) SCC (L&S) 1277).

The OA is dismissed. No costs.


(S.P. Biswas)
Member(A)

/gtv/