

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1979 of 2000

New Delhi, this the 3rd day of October, 2001

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Vidya Prakash
S/o Shri Labhu Ram
aged 68 years
R/o 29/3 Railway Colony,
Kishan Ganj, Delhi-110 007
last employed as
Driver T/Wagon in
Northern Railway at Fatehpur.

-APPLICANT

(By Advocate: Shri S.K. Vyas)

Versus

1. Union of India through
Chairman,
Railway Board,
Rail Bhawan,
Rafi Marg,
New Delhi-110 001.
2. General Manager,
Northern Railway,
Baroda House,
New Delhi-110 001.
3. Divisional Railway Manager,
Allahabad.

-RESPONDENTS

(By Advocate: Shri Rajinder Khattar)

ORDER

By Hon'ble Mr.Kuldip Singh, Member(Judl)

This is an OA filed by applicant under Section 19 of the Administrative Tribunal's Act, 1985 as he is aggrieved that his representation, Annexure A-1 made by him on 19.5.99 has not been decided till date. Besides that the applicant has also prayed that the respondents be directed to permit the applicant to opt for the pensionary benefits and respondents be asked to pay to the applicant pension, DCRG and commutation of pension, as admissible from time to time.

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2. The facts, as alleged by the applicant are, that the applicant had joined the services of Northern Railway as a Fitter on 1.3.56 and retired from the Northern Railway on 11.9.79 after rendering 23.1/2 years of qualifying service with State Railway Contributory Provident Fund benefits.

3. The applicant further submits that while his application seeking voluntary retirement was pending the Railway Board had issued order inviting options from the Railway employees in the service as on 1.4.79 to switch over to pensionary benefits from State Railway Contributory Provident Fund benefits and the letter for this purpose was issued on 23.8.79.

4. The applicant further alleges that the above order seeking option for pension had not been received at Fatehpur Station under Allahabad Division from where the applicant had retired on 11.9.97, so the same was not intimated to him and now since the Hon'ble Supreme Court of India in Civil Appeal No. 1475 of 1996 arising out of SLP (C) No.14785 of 1995 - UOI and Others Vs. D.R. R. Sastri wherein the Hon'ble Supreme Court had held that opportunity to come over to pension scheme should be extended to all those who could have opted for that had the above facts of the Railway Board's letter dated 23.8.79 been brought to the notice of all concerned. So after that judgment, the applicant made a representation but the same has not been decided so it is prayed that

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the respondents should allow the applicant to opt for the pension scheme and he should be paid DCRG, Commutation of Pension and other pensionary benefits.

5. The respondents are contesting the OA. The respondents pleaded that the application is barred by limitation and is not maintainable under Section 21 of the Administrative Tribunal's Act, 1985.

6. It is further stated that the applicant while working as Driver T/Wagon sought voluntary retirement on 11.9.79. The Railways had after introduction of pension scheme w.e.f. 1.4.57 had given an opportunity to several SRPF employees to switch over to pension scheme by giving option vide letter dated 20.5.78. The applicant did not avail that opportunity and the present application has been filed much late. The respondents also relied upon the judgment of the Hon'ble Supreme Court in the cases of State of Punjab Vs. Gurdev Singh, JT 1991(3) SC 465 and Ratam Chandra Samanta Vs UOI & Others, JT 1993(3) SC 418 to plead the bar of limitation.

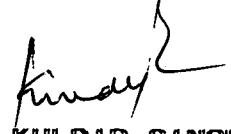
7. I have heard the learned counsel for the parties and gone through the records of the case.

8. Though the learned counsel for the respondents pleaded that the bar of limitation will apply in this case and stated that while the applicant was working in the Railways, option was given to him and as he had failed to exercise his option, so after such a long period, he cannot claim the said relief. But in reply to this, the applicant has referred to the case of the

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D.R.R. Sastri (Supra) and submitted that this is a case where an employee who had been working with the Railways had gone on deputation to the Heavy Engineering Corporation and got absorbed there in the year 1973 but was not paid pensionary benefits. His application was directed to be considered for switching over to the pension scheme because the Railways have themselves in the case of Shri K.V. Kasthuri had granted his option to switch over to the pension scheme so the applicant has pleaded that he is also entitled since the notice of option was not brought to his notice as he was working at Fatehpur Station under the Allahabad Division where the notice had not reached.

9. In my view since the representation of the applicant dated 19.5.99 is quite a recent representation and is still pending with the Railway authorities and no decision has been taken over the said representation by the Department, so it would be appropriate if a direction is issued to the respondents to pass an appropriate speaking and reasoned order on the representation of the applicant keeping in view the judgment given by the Hon'ble Supreme Court (Annexure A-3) while deciding the representation of the applicant. This be done within a period of 2 months from the date of receipt of a copy of this order. No costs.


(KULDIP SINGH)
MEMBER (JUDL)

/Rakesh