

Central Administrative Tribunal
Principal Bench, New Delhi.

RA-209/94 in
OA-199/93

22

New Delhi this the 15th Day of December, 1994.

Hon'ble Mr. B.N. Dhoundiyal, Member(A)

1. General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Financial Advisor and
Chief Accounts Officer,
Northern Railway,
Baroda House,
New Delhi.

Review applicants/
respondents in OA

versus

Sh. Balbir Singh,
R/o G-2, Naroji Nagar,
New Delhi-20.

Respondent in RA/
applicant in OA

ORDER

This review application has been filed by the respondents in O.A.No.199/93 against the judgement of this Tribunal dated 15.11.93. Notice for hearing the review application was issued to the applicant in the above O.A. (Sh. Balbir Singh) and on 24.10.94 the review application was listed for final hearing on 30.11.1994 subject to the respondents paying costs of Rs.2200/- to the applicant. The learned counsel for the respondents has brought a cheque for the said amount and the applicant was directed to accept it so that he may engage an advocate. The applicant categorically refused to accept the cheque and handed over a written statement requesting that his case may be decided on the basis of statement. He did not wish to engage any advocate.

We have heard the applicant in person and the learned counsel for the review applicants. The main ground for review is that an apparent error on the face

of record was committed. The case was decided ex-parte and the applicant failed to bring to the notice of the Tribunal that these issues had already been adjudicated upon by the Hon'ble High Court of Delhi in Civil Writ Petition No.1070/69. In their judgement dated 26.7.1971, the Hon'ble High Court held that "from the material on record, the claim of the applicant that he had opted for pension is not made out". Though ⁱⁿ the O.A., the applicant had mentioned that one case filed by him in the High Court had been dismissed in 1971, he had produced before us a copy of letter dated 29.3.1967 issued by the Northern Railway. In the schedule appended to this letter, the name of Sh. B.B. Singh was shown at Sr. No.1 as a pension optee. He also produced before me a certificate dt. 19.5.1969 from the A.P.O. that Sh. B.B. Singh handed over his pension option papers to him. The respondents had failed to appear or to file a reply inspite of repeated notices and under these circumstances, an ex-parte order was given on 15.11.1993 which was primarily based on the above averments made by the applicant. However, a perusal of the judgement of the Hon'ble High Court shows that precisely this issue had been considered by them and they had categorically rejected the plea of the applicant that he had exercised option to join the pension scheme. Similarly, the Constitution Bench of the Hon'ble Supreme Court considered the case of the applicant alongwith other applicants involving identical matters and had rejected their claim vide their judgement dated 13.7.1990 delivered in the case of Krishan Kumar & Ors. Vs. U.O.I. & Ors. reported in AIR 1990 SC 1782.

23

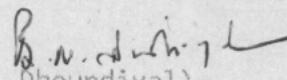
-3-

In view of the aforesaid considerations, I hold that suppression of these facts resulted in occurrence of error apparent on the face of record and the judgement dated 15.11.93 is hereby recalled.

24

The respondents in O.A.No.199/93 are allowed to file a detailed reply within a period of three weeks. Rejoinder, if any, may be filed by the applicant within two weeks thereafter.

List for final hearing on 25.01.1995.


(B.N. Dhoundiyal)

Member (A)

/vv/