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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH; NEW DELHI

...

Regn.No.OA-273/88

Date of Decision 16.11.1988

Shri Gafoor

... Applicant.

Versus

Union of India & Ors.

... Respondents.

For the applicant

... None.

For the respondents

... Shri A.K.Behra, proxy
counsel for Shri K.C.
Mittal, Advocate.

CORAM: Hon'ble Mr. P.K.Kartha, Vice Chairman (Judicial).
Hon'ble Mr. P.Srinivasan, Administrative Member. ^

1. Whether Reporters of local papers may be allowed to see the Judgement? V2
2. To be referred to the Reporters or not? No

JUDGEMENT

(Judgement of the Bench delivered by Hon'ble
Shri P. Srinivasan, Administrative Member.)

This application has come up before us for admission today. The case was called out several times before the lunch break but neither the applicant nor his counsel was present. It was again called out in the post lunch session but again none was present for the applicant. We notice from the perusal of the order-sheet that though this application was filed in December, 1987 and notice issued to the applicant about the hearing of the case on 29.4.88, nobody appeared on that date or on 26.5.88 and 1.8.88, to which dates the matter stood adjourned. On 19.9.88, Shri R.C Kataria, learned counsel for the applicant appeared and prayed for time to file rejoinder to the reply filed by the respondents. The matter was adjourned for directions to 24.10.1988 but on this date neither the applicant nor his counsel appeared and it was further adjourned to 16.11.1988. As we have already stated nobody has appeared for the applicant today and no rejoinder has been filed on behalf of the applicant, we therefore, proceeded to dispose of this application with the help of the learned counsel for

P. Srinivasan

the respondents, Shri Behra.

2. Shri A.K.Behra for Shri K.C.Mittal, learned counsel for the respondents submits that the continued absence of the applicant before the Tribunal and failure to file any rejoinder indicate that the applicant is not interested in pursuing the application and that it should be dismissed for default. Shri Behra also pointed out that the prayer of the applicant is for pensionary benefits from his employer, namely, Director General Ordinance Services. The applicant who was an ex-serviceman joined the Ordinance Services as a Mazdoor on 18.12.1954. He was given the option to elect either for pension or for contributory provident fund. He exercised the option in favour of Contributory Fund in 1969. In view of this he was paid the balance in the Contributory Fund on his retirement and was not entitled to pension. Since he himself had opted for Contributory Provident Fund, his claim has no merits.


3. We have considered the matter carefully. After going through the application and the reply filed by the respondents and after hearing Shri Behra, we are satisfied that the application is devoid of any merit. We may also mention here that Shri Behra contended that practically the same issue was sought to be agitated by the applicant in application No.149 of 1986 before the Allahabad Bench of this Tribunal and that the application had been dismissed by that Bench by a judgement dated 24.9.1986. He, therefore, submitted that this application is barred by resjudicata. Even if, we disregard this argument, we find that the application has no merit because the applicant himself exercised an option in accordance with which

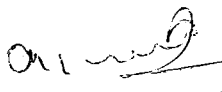
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he was not entitled for pensionary benefits.

4. As we have already indicated, we decided to proceed to deal with this application in the absence of the applicant and to dispose it of on merits.

Since we find no merit in this application, we dismiss it with no order as to costs.


(P. Srinivasan)
Administrative Member


(P.K. Kartha)
Vice Chairman (Judicial)