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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 282
TAX No.

1986

DATE OF DECISION 26.2.1987

Shri Thada Ram **Petitioner**

Shri K.L. Bhatia **Advocate for the Petitioner(s)**

Versus

Union of India **Respondent**

Miss Rachna Joshi **Advocate for the Respondent(s)**

CORAM :

The Hon'ble Mr. S. P. MUKERJI, ADMINISTRATIVE MEMBER

The Hon'ble Mr. H. P. BAGCHI, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? No


(H. P. BAGCHI)


(S. P. MUKERJI)

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 282/86

DATE OF DECISION: 26.2.87

Shri Thada Ram

• • Applicant

Vs.

Union of India

• • Respondent

Shri K.L. Bhatia

• • Counsel for Applicant

Miss Rachna Joshi

• • Counsel for Respondent

CORAM

The Hon'ble Mr. S. P. Mukerji, Administrative Member

The Hon'ble Mr. H. P. Bagchi, Judicial Member

JUDGMENT

The applicant who is a retired Assistant Superintendent in the Northern Railway has moved the Tribunal by this application dated 23.4.86 praying that the order of the respondents dated 31.12.85 be set aside and he may be allowed to get his pension with effect from 17.2.1973 on the basis of the option exercised by him 10.9.1977.

2. The brief facts of the case can be recounted as follows. The applicant ^tretired from railway service on 16.2.1973. At the time of retirement he was ⁱⁿ SRPF optee and got retirement benefits accordingly without pension. On 17.4.1977 ^{the} employees were allowed to exercise their option to come over to pension scheme,

up to 31.12.1977. The period of option was extended up to 31.12.1978. By an order dated 29.12.1979 it was decided that extension of time up to 31.12.1978 would be applicable to also those who having been in service on 1.1.1973, retired or quit service or died in service during the period from 1.1.1973 to 31.12.1978. The applicant being in this category claims that he applied to the General Manager opting for the pension scheme on 10.9.1977 by a registered post and acknowledgement due bearing no. 4200 dated 10.9.1977. He sent a reminder on 15.11.1977 under 'certificate of posting'. The respondents however, deny having received any such option. The applicant kept quiet for seven long years and sent representations on 10.5.1984 and on 29.9.1984. The Northern Railway authorities recommended his case for grant of pension to the Railway Board but the Railway Board rejected his case in the detailed impugned order dated 31.12.1985.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The whole case turns on the question whether the applicant had really sent his option as averred by him by Regd. post & ack due on 10.9.1977. The applicant could not produce the A.O. card to show that he had sent a communication to the authorities which had been received by them. He has produced a photostat copy of the postal receipt of the regd. letter no. 4200 dated 10.9.1977. We have seen the original of this postal receipt the photostat copy of which is attached with the application. The learned counsel for respondents argued persuasively

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(Signature)

that the Railway Board was not prepared to accept this receipt as a valid proof of the communication sent by the applicant, unless the A.D. card was also produced by the applicant. The reason given by the learned counsel is that whereas the A.D. card would indicate the name of the sender, the postal receipt of the letter which the applicant has produced does not bear any indication about who the sender of the registered letter was. Such a postal receipt can be easily produced even by a stranger who has nothing to do with the case.

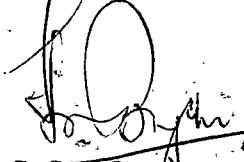
4. Even if after giving the petitioner the benefit of doubt we accept the ^{h post} receipt as the proof of the communication which he had sent, it cannot be established that the communication which he had sent was in relation to the exercising of his option for the pension scheme. On the other hand, it seems surprising that the applicant should have kept quiet for seven long years after he had sent his option, when he was throughout this period admittedly living in Delhi where the headquarters of the respondents are situated. The case of Sh. S.N. Kapoor as stated by ^h him has been explained by the respondents in the impugned letter of 31.12.1985 itself by stating that Shri Kapoor had made written request for grant of pension within the deadline, whereas in the case of the petitioner, ^h there no such proof is in existence. The postal authorities also could not verify the addressee of the 'registered post and A.D.' receipt No. 4200 of 10.9.77 produced by the applicant as the old records had been weeded out. The petitioner retired in 1973 and it is

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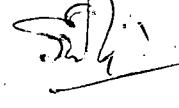
too late in the day to allow him to exercise the option on the dubious ground of his having sent his option in 1977 for which he could not produce any convincing proof. His conduct also during all these years in keeping silent is inscrutable.

Reopening of such old cases is likely to open the floodgates of similar cases which will create avoidable unsettlement of matters long settled.

5. In the facts and circumstances much though we sympathise with the petitioner who is a septuagenarian, we cannot allow the application. The respondents may, if they so desire, ^{to take} take a compassionate view of the matter and grant him the relief asked for to the extent possible if so advised. So far as the application is concerned the same stands rejected. There will be no order as to costs.


(H.P. BAGCHI)
JUDICIAL MEMBER

26-2-87


(S.P. MUKERJI)
ADMINISTRATIVE MEMBER