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CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

O.A.No.1887/87  
R.a.No.20/90

Date of Decision: 20.10.93

Late Shri J.P. Srivastava                      Petitioner  
deceased through Local  
Representative  
Smt. Shanti Devi

Vs

Union of India                      Respondents

The Hon'ble Mr. J.P. Sharma, Member(J)

The Hon'ble Mr. S.R. Adige, Member(A)

For the petitioner      Shri B.B. Srivastava, Counsel

For the Respondents      Shri Jagjit Singh, Counsel

Judgement

delivered by Hon'ble Shri J.P. Sharma, Member (J)

The deceased employee retired from the Railway on 15.8.1957 as Station Master. He filed the application on 21.12.1987 aggrieved by the Order dated 4.8.1987 (Annexure A) passed by the Divisional Rail Manager, Jaipur that no pension payment is due to him. A notice was issued to the respondents who contested the application. By Judgement dated July 5, 1989, the Principal Bench, CAT, New Delhi allowed the application directing the respondents to compute the pension of the applicant payable on 15.8.1957 and further calculate the same for all the years within a period of two months and to deduct the Government of India contribution to the Provident Fund and the special contribution made to the said fund from the amounts so computed as mentioned above. The balance amount should be paid to the applicant within one month.

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The Union of India file<sup>d</sup> a Review Application No. 20/90 against the judgement. The Review Petition <sup>was</sup> ~~is~~ <sup>le</sup> ~~being~~ allowed and the judgement in favour of the deceased employee dated 5.7.1989 was set aside and the O.A. No. 1887/87 was listed for hearing by the Order passed in Review dated 13.2.1991.

For the reason indicated above, we are of the view that the Review application has force and must succeed. We, therefore, allow the Review Application and set aside the judgement of the Tribunal in O.A. No. 1887/87 dated 5.7.1989. The amount credited in the account of the applicant in Post Office will now be refunded to the Railways. A sum of Rs. 503/- which has been given the applicant as pension will, however, not be recovered. However, taking into consideration the facts and circumstances of the case, we leave the parties to bear their own costs.

The deceased employee amended the original application by moving MP 20/90 which was allowed. However in the relief clause no amendment was sought. In para 6.5 of the original application an addition was made to the effect that immediately after his retirement as there was no pension scheme at that time the applicant filled in the settlement form in favour of SRPF and requested for early settlement of his dues. The applicant <sup>le</sup> has also added further grounds <sup>b</sup> p, q, r, & s.

The respondents have filed reply to the amended application also.

In the meantime the employee has died and his widow has been substituted in his place

We have heard the learned counsel for the parties at length. In fact the judgement in the review application makes it clear that the employee (now deceased) has given his option to be retained in SRPF scheme. In the option form pension (R 2) to the counter, is in the hands of the deceased employee where the word that he opts for pension rules has been scored out and the words 'I opt to continue under SRPF rules' have been retained. Thus, the deceased employee has given an option not to go to the pension scheme which was introduced in the railway by letter dated 16.11.1957. In the amended para 6.5 the deceased employee admitted this fact.

In view of this factual position there survives nothing in this case to be adjudicated upon. The Judgement in the R.A. clearly goes to show that the applicant has given an option to retain the SRPF Scheme. The OA is, therefore, devoid of merit. During the course of the argument the learned counsel for the applicant desired that the money deposited in the post office account to be ordered to be released in favour of widow. However, in the judgement in the RA 20/90, it was ordered that this amount to be refunded to the railways. The

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Original Application is, therefore, disposed of in terms of judgement given in the RA 20/90 and it is held that the same is devoid of merits and dismissed. No costs.

*Adige*  
(S.R. Adige)

Member (A)

*Sharma*  
(J.P. Sharma) 1.10.93

Member (J)

\*Mittal\*