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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 1647/90. DATE OF DECISION: 30.8.1991.

Shri Amar Nath Applicant.

v/s.

Union of India & Ors. Respondents.

CORAM: Hon'ble Mr. Justice Ram Pal Singh, V.C. (J).
Hon'ble Mr. P.C. Jain, Member (A).

Shri Sudhir Nandrajog, Counsel for the Applicant.
Shri B.M. Mani, Counsel for the Respondents.

P.C. JAIN, MEMBER (A):

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant, who retired from the post of Assistant Mechanical Engineer, Ferozepur Division, on 13.12.1969, with Provident Fund benefits, has prayed for a direction that he is entitled to the pension scheme since the date of his retirement and pay to him the amount as per the direction of the New Bombay Bench of this Tribunal in T.A. No.27/1987 (Ghansham Das and Anr. Vs. The Chief Personnel Officer (Mech.), Central Railway, Bombay V.T. and Others) decided on 11.11.1987.

2. We have gone through the material on record and have heard the learned counsel for the parties on admission.

3. The O.A. is against the impugned Order No.974-E/60/Welfare/Pt. II, dated 1.3.90 issued by the office of the Divisional Railway Manager, Ferozepur, by which the applicant was informed that since he retired as P.F. optee, the pensionary benefits could not be extended to him being not admissible under the rules.

4. The applicant has relied upon the judgment delivered on 11.11.1987 in T.A. No.27/87 by (Ghansham Das and Another Vs. The Chief Personnel Officer (Mech.), Central Railway, Bombay V.T. and Others) in which the New Bombay Bench of this Tribunal, inter-alia, directed as under: -

"vi) The respondents are directed to implement the directions given in clauses (i) to (iv) of this

(1e).

order in respect of all the railway employees who were similarly placed like the applicants i.e. those who retired during the period from 1-4-69 to 14-7-72 and who had indicated their option in favour of pension scheme either at any time while in service or after their retirement and who now desire to opt for the pension scheme."

The applicant has filed a copy of the orders of the Hon'ble Supreme Court dated 5.9.88 by which an S.L.P. against the aforesaid order of the New Bombay Bench of this Tribunal was dismissed. The Hon'ble Supreme Court had passed the following order: -

" We have heard learned counsel for both the parties. This is not a fit case for interference under Article 136 of the Constitution. The Special Leave Petition is accordingly dismissed."

5. The respondents have contested the O.A. on admission itself on the ground that the judgment of the New Bombay Bench in T.A. 27/87 has been over-ruled by the judgment of Hon'ble Supreme Court in SLP No.8461 of 1986 (Krishan Kumar Vs. Union of India) along with C.W.P. 1285 of 1986, 1575 of 1986, 352 of 1989 and 361 of 1989, delivered on 13.7.90. They have filed a copy of the said judgment.

6. There is no doubt that the case of the applicant was covered by the directions given in T.A. 27/87 by the New Bombay Bench on 11.11.1987. But, after going through the judgment of the Hon'ble Supreme Court in SLP No.8461 of 1986 (Krishan Kumar Vs. Union of India) along with C.W.P. 1285 of 1986 and others (supra), delivered on July 13, 1990, which discussed the issues involved at considerable length, we come to the conclusion that the applicant is not entitled to the relief he has prayed for. The applicant was given a number of opportunities while he was in service for opting for the pension scheme, which he did not avail of. In the light of the judgment of the Hon'ble Supreme Court dated 13.7.1990, we find no valid ground to admit the application.

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7. In view of the above, the O.A. is dismissed at the stage of admission itself. There shall be no order as to costs.

U.C.
30/8/91
(P.C. JA IN)
Member(A)

Ram Pal
30/8/91
(RAM PAL SINGH)
Vice Chairman(J)

30.8.1991.