

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. NO. 2503/93

New Delhi this the 29 day of July, 1994

CORAM :

THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

Suresh Chandra Gupta S/O  
Late Shri R. C. Gupta,  
D/49, Paschimi Marg (1st Floor),  
Vasant Vihar,  
New Delhi - 110057.

... Applicant

(In Person)

Versus

Union of India through  
Secretary,  
Ministry of Railways  
(Railway Board),  
Rail Bhawan,  
New Delhi.

... Respondent

(By Advocate Shri O. P. Kshatriya)

O R D E R

In this application, Shri Suresh Chandra Gupta, former Deputy Chief Mechanical Engineer, Indian Railways has prayed for a direction to the respondents for grant of gratuity amounting to Rs. 5,03,459/-.

2. The applicant joined the Indian Railways as a Special Class Apprentice on 30.7.1949 and after completion of training, was permanently appointed as Assistant Mechanical Engineer (Class-I service) junior scale on 16.7.1953. He was promoted as Divisional Mechanical Engineer in the senior scale w.e.f. 2.4.1959 and was further promoted as Dy. C.M.E. w.e.f. 25.11.1971. He availed of 120 days' leave on average pay w.e.f. 6.6.1972 and took 10 months' leave on half

pay in continuation thereof w.e.f. 4.10.1972 to 3.8.1973. As he could not re-join duty, the Railway Board accepted his request for resignation from Railway service w.e.f. 20.1.1973 (Annexure A-11).

3. The only ground taken by the applicant in this O.A. is that he is entitled to gratuity after rendering nearly 23½ years of service, in accordance with the provisions of the Indian Railway Establishment Code. In this connection, he seeks to draw support from the decision of the Hon'ble Supreme Court in the case of Bakshish Singh vs. M/s Darshan Engineering Works & Ors. reproduced in the Supreme Court Almanac 1993 (4) SCALE 99.

4. The respondents have taken the stand that the application is barred by lack of jurisdiction and limitation, as the cause of action has arisen prior to November, 1982. Furthermore, it has been stated that the Hon'ble Supreme Court's judgment relied upon by the applicant is not applicable to the facts of this case, as he is not covered by the provisions of Payment of Gratuity Act, 1972. The applicant by virtue of his holding a civil post under the Central Government in the Railways is not entitled to the benefits under the Payment of Gratuity Act, 1972. As the applicant was not eligible for voluntary retirement in terms of Rule 2046 (1) of the Indian Railway Establishment Code Volume-II, there was no option for the administration but to accept his resignation from the Railway service w.e.f. 20.1.1973, and he thereby forfeited his claim for payment of any retirement benefits including DCRG.

Furthermore, it has been pointed out that the applicant made his first representation for pensionary benefits on 14.12.1985, that is, after more than 12 years of his resignation from Railway service. It has also been denied that the applicant had put in 23½ years of service, as the apprenticeship of four years before he joined the Railway service in July, 1953 is not reckoned as service for the purpose of payment of retirement benefits etc.

5. As stated above, the applicant resigned from Railway service w.e.f. 20.1.1973. The respondents have stated that the first representation for pensionary benefits was made on 14.12.1985, after more than 12 years of his resignation. This O.A. was filed on 30.11.1993, that is, more than 5½ years after the respondents issued their impugned letter dated 11.4.1988 finally rejecting the applicant's prayer for pensionary benefits. No reasons have been given in the O.A., to explain the inordinate delay in filing the same, and no petition for condonation of delay has been filed either. The cause of action itself arose in 1973, that is, very much before the period of three years prior to the inception of the Tribunal.

6. Under these circumstances, this application is dismissed on account of laches, limitation and lack of jurisdiction. No costs.

*Anfoligc*  
( S. R. Adige )  
Member (A)

/as/