

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 09th day of November, 2001.

C O R A M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Original Application No. 126 of 1998.

- 1 Gorakh Nath Singh
- 2 Durgvijai Singh
- 3 Ranvijai Singh
- 4 Km. Guddi Singh

All children of Sri Jeot Singh R/o Village-Pipra Kachar,
P.O. Bhairavpur, Distt. Mau.

.....Applicants

Counsel for the applicants :- Sri S.K. Om

V E R S U S

1. Union of India through the General Manager,
North Eastern Railway, Gorakhpur.
2. Chief Works Manager, Mechanical Works Shop,
North Eastern Railway, Gorakhpur.

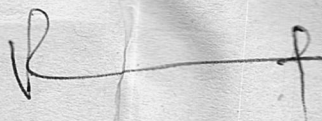
.....Respondents

Counsel for the respondents :- Sri A.K. Gaur

O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

By this application under section 19 of the Administrative Tribunals Act, 1985, applicants have prayed for direction to respondents to give rear of pension w.e.f 28.02.1982 to 26.02.1986 and rear of family pension w.e.f 27.04.1986 to the present time with 18% interest.



2. The facts giving rise to this application are that father of the applicants Late Jeot Singh was employed as Turner in 1961. On 16.06.1965, he was terminated from service against which he filed Civil Suit No. 545/1968 in the Court of Munsif, Azamgarh. The suit was decreed on 25.07.1969. Railways preferred the Civil Appeal No. 286/1969 which was allowed on 14.03.1972. Against first appellate decree, applicants' father filed second appeal No. 1989/1992 in the High Court which was allowed on 31.08.1977 and the matter was remanded to first Appellate Court. First Appellate Court dismissed the appeal of Union of India on 19.01.1978. Respondents again filed second appeal No. 1419/1978 which was dismissed by Hon'ble High Court. Thus the decree dated 19.01.1978 became final. Father of the applicants was reinstated on the post up to 28.02.1982 (the date of superannuation) vide order dated 24.04.1986. Thus the father of the applicants was treated in service w.e.f 16.06.1965 to 28.02.1982. When the father of applicants ^{was} facing litigation, Central Government introduced the scheme known as S.R.P.F (Contributory) scheme under which the railway employees could opt for pension under Pension Rules, 1964. It is admitted fact that father of the applicants did not exercise option during his life time and after his death on 26.04.1986 also his wife did not exercise option ^{up to 28.02.1983}. When she received order dated 24.04.1986, she exercised option on 13.05.1986. It may be submitted here that Government of India M/O Railways vide letter dated 09.11.1982, made the S.R.P.F (Contributory) Scheme applicable to those employees who were in service upto 31.01.1982 or who retired from service after that date. The last date for exercising option under this scheme was 28.02.1983.



3. Learned counsel for the applicants however, has submitted that as the applicants father was out of service, he could not exercise this option till his retirement or during his life time/^{i.e.}upto 26.04.1986 as the order of reinstatement was passed only two days before his death on 24.04.1986. In short, the submission of learned counsel for the applicants is that the delay on the part of respondents in passing the order of reinstatement was the main reason for which the applicants have been deprived of the family pension as they could not exercise option within time. Learned counsel for the applicants has submitted that the applicants should not be allowed to suffer for the fault of the respondents .

4. Sri A.K. Gaur, learned counsel for the respondents on the other hand has submitted that in view of the admitted fact that the option was not exercised within time fixed by the order dated 09.11.1982, applicants are not entitled for the benefits and they will be governed by the old scheme.

5. I have carefully considered the submissions of learned counsel for the parties and perused the records.

6. It is true that untill the first appeal was decided on 19.01.1978, father of the applicants could not exercise option as he was out of service though scheme was extended from time to time. After the second appeal of U.O.I dismissed by the Hon'ble High Court, I do not find any justification on the part of father of the applicants and also mother of the applicant who had filed this O.A, was not opted upto 24.04.1986 when the order of reinstatement was passed by Addl. Chief Machanical Engineer. Father of the applicants



ought to have raised this question ~~XXXXX~~ by filing execution application after order of reinstatement was passed at the earliest. In the present case, mother of the applicants and father of the applicants both are equally responsible for laches. Though, litigation on the part of the respondents ^{is} ~~are~~ also not appropriate but I do not find any principle on which basis, the scheme may be made applicable in favour of the applicants who have not exercised the option on or before the cut-off date. In the facts and circumstances, applicants are not entitled for the relief. The O.A is accordingly dismissed having no merits.

7. There will be no order as to costs.


Vice-Chairman.

/Anand/