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Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

ORIGINAL APPLICATION NO. 122 of 1986.

Fequir Mohammad Khan

..... applicant.

Versus

Union of India and another

..... Opp. parties.

Hon'ble D.S.Misra-Member-A
Hon'ble G.S.Sherma-Member-B

(By Hon'ble D.S.Misra)

This is an application under section 19 of the Administrative Tribunals Act against the order dated 30.8.1984 passed by the Chief Personnel Officer, Central Railway, Bombay rejecting the request of the applicant for the grant of Pension after his retirement on 31.12.1978 from the post of Senior Time Keeper in the office of the Addl. Chief Mechanical Engineer, Central Railway Workshop, Jhansi (respondent no.2) u.e. from 1.1.1979.

2. It has been alleged by the applicant that on 30.12.1978 he had given an option for pensionary benefits, to which he was legally entitled but the same has been denied to him by the respondents. The grievance of the applicant is the rejection of his requests made in various representations. He has prayed that the respondents be directed to pay pension to the applicant u.e. from the date of his retirement.

3. In reply the respondents denied the contention of the applicant that he had applied for grant of pension on 30.12.1978 and have contended that the applicant opted for pension on the day of his retirement after taking all settlement dues under S.R.F.P.F. Rules. It is also stated that the applicant is

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not entitled to pension from the date of his retirement as he had not deposited government contribution to P.F.Bonus which he was asked to deposit by 7.9.1979 by the Addl. Chief Mechanical Engineer (W) Central Railway, Jhansi. The applicant was further directed to deposit the amount latest by 25.1.1980 to become entitled to pension but he did not do so and his representations were beyond time. There was therefore, no question of acceding to the request of the applicant as deduction of such amount from the pension was not admissible under the rules and the applicant is not entitled to the relief sought by him.

4. In his rejoinder the applicant reiterated his claim and asserted that the contention of the respondents that the application was barred by time, is not correct and that the mere fact that some payments were to be made by the applicant to the respondents could not be a sufficient ground to refuse pensionary benefits to the applicant to which he was legally entitled under the rules. It is also asserted that he had opted for pensionary benefits within the stipulated time and denied the allegations of the respondents that the option exercised by the applicant was after he had taken all settlement dues under S.R.P.F. Rules.

5. We have heard the arguments of the learned counsel for both the parties. It is pertinent to note that neither the applicant nor the respondents cared to file the relevant extracts of the rules mentioned in their averments. We had, therefore, to obtain a copy of the Railway Board's instructions contained in letter no. PC-III(73) PN/3 dated 23.7.1974 from the Deputy Director Pay Commission, Railway Board New Delhi addressed to the General Managers, All India Railways and etc. on the subject of grant of option to railway servants governed by the State Railway Provident Fund (Contributory) Rules to come over to pensionable service and to the Family Pension Scheme. Para 2(i) of the said

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rules is applicable in this case and states as follows:-

"2(i)- In the case of those Railway Servants who are eligible for exercising an option under these orders, but who have retired and settled up under the S.R.P.F. (Contributory) Rules, the option for pension will be valid if they refund the entire Government contribution and the excess, if any, of special contribution to provident fund received by them, over DCRG due to them under Pension Rules. The refund must be received before the last date for exercise of option or within one month of their being advised to do so by the Railway Administration, which-ever is later. General Managers may extend the above limit of one month to three months in consultation with the respective F.A. and C.A.D.S. on the merits of individual cases."

The applicant has himself filed in original letter no. ACME(W)'s Jhansi dated 2.2.1984 received from the office of A.C.M.E. (W) Jhansi in which he was informed as follows:

" Ref: Your representations dt.5.9.1983, 24.9.1983 and 12.12.1983 addressed to General Manager, C.Rly. BB VT.

You were given many opportunities to refund the amount of Government contribution to Provident Fund (Bonus) but you failed to deposit the same.

Now, at this stage your request for pensionary benefits cannot be accepted to."

This letter is followed by two other letters dated 19.7.1984 of ACME(W) Jhansi and letter dated 30.8.1984 in which the applicant was again informed that since he had failed to deposit the amount of Rs.12,803/- received by him after his retirement to the credit of the Railway, it would not be possible to agree to his request for sanctioning a pension. The applicant's request for adjusting this amount out of the pension amount payable to him is not covered by the rules on the subject and as such the rejection of his request by the competent authority cannot be considered unreasonable or violative of any rule on the subject. In view of this, we are of the opinion that the request of the applicant is not only unreasonable but violative of the pension rules also.

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6. The contention of the applicant that he had applied for grant of pension one year before the date of retirement is denied by the respondents and in the absence of any documentary evidence produced by the applicant in support of his contention, it is not possible to accept the allegation of the applicant contained in his application, that he had applied for pension one year before the date of retirement. His subsequent conduct in accepting the benefits accruing to a railway employee under the S.R.P.F. Scheme also supports the averment of the respondents that the applicant had willingly exercised the option of getting the benefit under the S.R.P.F. Schemes and had applied for the pension schemes only after receiving the benefits under the S.R.P.F. Scheme.

7. In the circumstances, mentioned above, we are of the opinion that the applicant is not entitled to pension and accordingly reject his application but make no order as to costs.

Sharma
16.10.86

Member-A

Sinha
16/10/86

Member-B

06/10.1986.