

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
Registration T.A.No. 1403 of 1987

Kotam Singh

....

Applicant

Vs.

Union of India & Others...

Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, Member (A)

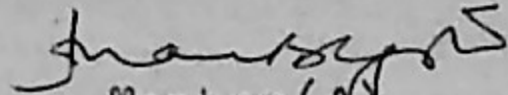
This is a transferred application under Section 29 of the Administrative Tribunals Act, 1985. The applicant filed a Writ Petition before the High Court praying that a writ of mandamus be issued directing the opposite party no.2 i.e. Mandal Athiyanta, Northern Railway, Agra to decide the representation of the applicant or to issue order regarding payment of pension. The applicant served as a Gangman in Northern Railway, Shikohabad, District Mairpuri. After completing the age of 55 years on 19.4.1983 the applicant filed an application before Opposite Party No.2 through Opposite Party No.1 stating that his retirement is due on 31.3.84 and he wanted retirement from service after completing age of 55 years and prayed that his pension may be granted to him immediately after his retirement. The applicant got retirement on 31.3.84 but no order was passed regarding grant of pension to him. The applicant filed an application on 25.7.84 stating that he has been retired from service on 31.3.84 but no order regarding payment of pension has been made and he has not been paid his pension since the date of his retirement. But even then no action was taken and this led the applicant to file a Writ Petition.


2. The respondents have opposed the application and it has been stated by them that the applicant made an application for voluntary premature retirement in terms of Rule 2046 of the Railway Establishment Manual. He was however not entitled

to get any pension as he was appointed prior to 1.4.1957 and he did not opt for pension. Only those employees who opt for pension are entitled to get pension after retirement. As the applicant was retired on attaining the age of 55 years he was only entitled to get State Railway Provident Fund. The applicant submitted the settlement papers and signed the Railway Provident Fund papers in place of pension papers, and he withdrawn the Railway Provident Fund on 8.10.84 which was payable to him under the Rules.

3. The applicant who is an illeterate person has stated that he has signed papers which he was asked to sign and he is not aware that he has not signed the papers for payment of pension and he was paid a sum of Rs.17,103/-, and it is not correct to say that he was not entitled to get the pension. This fact was never disclosed to the applicant at the time of payment of provident fund. On behalf of the applicant it has been stated that he always preferred to refund the amount in case he ^{may} get the pension in place of provident fund. The facts as stated above indicates that the case is so simple but the Railway Administration is sitting tight on the matter. The applicant applied for premature retirement but with a condition that his application for pension is to be accepted. It was not open for the respondents to accept one part of the prayer and to reject the other part of the prayer. When the applicant retired and made the said application the option was still open for the pensionary benefit and the Railway Authorities from time to time have issued notification in this behalf. As the applicant ^{had} applied for pensionary benefit it was obligatory for the respondents to consider his case for pensionary benefit. Accordingly the respondents are directed to take the application of the voluntary retirement of the applicant as an option for exercising the pension and give the final decision with a period of three months. In case the applidant's prayer

for pension is allowed which it is expected will be done
the applicant may be required to refund the provident
fund amount. The application stands disposed of finally
in the above terms. There will be no order as to costs.


Member (A)


Vice-Chairman

25th February, 1992, Alld.

(sph)