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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 115 of 1986
T.A. No.

DATE OF DECISION 29.10.'86

SHRI M. B. CHAVDA Petitioner

S/SHRI B. B. GOGIA & S. J. VYAS Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS. Respondent

SHRI M. N. UDANI Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P. H. TRIVEDI ... Vice Chairman

The Hon'ble Mr. P. M. JOSHI ... Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal.

O.A. No. 115/86

Per: Hon'ble Shri P. H. Trivedi, Vice Chairman

JUDGMENT

The applicant, Shri Chavda, retired from Railway service on 31.5.'81, on attainment of superannuation age. He claims to have applied by registered A.D. on 18.12.'81, to the Divisional Accounts Officer, exercising his option for Family Pension Scheme, but the option seems to have been misplaced, according to him, by the railway administration. His stand is that the railway administration has issued various circulars from time to time, asking its employees to exercise its option for Family Pension Scheme and even extending such option to those who retired after 31.1.'82 or those who were in service on that date. The applicant, therefore, contends that he has a claim, in the spirit of these instructions, to be allowed to exercise his option of Family Pension Scheme even after retirement.

2. After hearing the learned advocates Shri Gogia and Shri Udani for the applicant and the respondent respectively, we find that as the applicant having retired in 1981, the instructions referred to by him do not cover his case. These instructions apply to those who were in service on 31.1.'82 or who retired thereafter, and clearly do not cover the applicant's case, who has retired considerably before that date. The applicant has already received his dues and has enjoyed income derived therefrom. In the meantime, he is unable to show any proof of the letter by which he has exercised this option and which he states has

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been misplaced by the railway administration. In the absence of such a proof we cannot accept his mere word to substantiate his claim which has to be taken as having been made after his retirement. Nothing stopped him from sending some communication even on his retirement, regarding such an option or even at the stage of receiving his dues that he was doing so under protest. We have ascertained that he stands to gain significantly if he is allowed to exercise his option now and we cannot consider a favourable decision for him in isolation for conferring its benefit upon him. If his application is allowed to have merit, there is no reason why many officers who have retired in 1981 will also not have to be allowed such claims and, indeed we do not know whether any line can at all be drawn at any particular date dividing those to whom such a benefit is allowed and those to whom it is to be denied. There may be considerable strength in the case for allowing the benefit of Family Pension Scheme to retiring Government servants if such a scheme is found to be of benefit for their dependents or themselves as a matter of public policy without restricting it to category of officers. This is a matter which deserves careful and sympathetic consideration of the Government. We do not, however, feel justified in allowing the benefit to any particular officer when we hold that the present rules and instructions do not cover this case. We therefore, find that the application has no merit and fails. We make no order as to costs.

P. H. Trivedi
(P. H. TRIVEDI)
Vice Chairman
P. M. Joshi
(P. M. JOSHI)
Judicial Member