

(24)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

O.A. No. 445/89

~~SECRET~~

DATE OF DECISION 11.6.1992

Shri P.K. Bhatt Petitioner

Party in Person Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Mr. N.S. Shevde Advocate for the Respondent(s)

**CORAM :**

The Hon'ble Mr. R.C. Bhatt : Member (J)

The Hon'ble Mr.

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?

Shri P.K. Bhatt

.... Applicant.

vs.

1. Union of India,  
Through  
General Manager,  
Western Railway,  
Churchgate,  
Bombay.

2. Divisional Railway Manager,  
Pratapnagar,  
Baroda.

.... Respondents.

O R A L J U D G M E N T

O.A. No. 445 of 1989

Date: 11.6.1992.

Per: Hon'ble Mr. R.C. Bhatt:

Member (J)

Heard Mr. P.K. Bhatt applicant in person and  
Mr. N.S. Shevde learned advocate for the respondents.

2. The applicant has filed this application under  
Section 19 of the Administrative Tribunals Act, 1985 for  
a declaration that he is governed by the Pension Scheme  
and not by SRPF as per the order of the Railway Board  
and has further prayed that the settlement of his Retiral  
Benefit by ~~be~~ made according to the pension scheme.

3. The respondents have resisted the application  
by filing reply contending that the applicant had opted  
for SRPF Rules and he did not change his option within  
the time allowed by the Railway Board permitting the

(6)

employee to come over to pension scheme and the applicant did not opt for pension up to 30th September, 1987 as per circular dated 4th August, 1987. It is contended that the applicant by application dated 13th August, 1987 of opted that he wanted to continue in SRPF Rules. The respondents denied that the applicant has subsequently given an application for withdrawing his option form opting for SRPF Scheme before the prescribed time limit as alleged. It is contended that the applicants' letter Annexure A/6 dated 25th September, 1987 has not been received by the concerned department of the respondents and hence the application be dismissed.

4. The applicant has given written submission and has waived oral arguments. The respondents were directed to produce the Service Record like Statement File, Service Sheet, Personal File and Leave File. The learned advocate Mr. N.S. Shevde for the respondents has brought the file of Service Sheet and examining that file, it is found that the copy of the letter annexure A/6 dated 25.9.1987 is there in the said file.

5. The application by the applicant Annexure A/6 dated 25.9.1987 is to treat his declaration dated 18th September, 1987 opting for Provident Fund Scheme as cancelled and to allow him to come under pension scheme

as per circular dated 4th August, 1987. The respondents' learned advocate submitted that the applicant by his declaration dated 18th September, 1987 had opted for Contributory Provident Fund Scheme. It is not disputed that the applicant had made that application dated 8.9.1987 and he has referred to it in Annexure A/6 but applicant has stated subsequently by Annexure A/6, to treat his earlier application as ~~can~~celled and therefore he is entitled to get benefit of the pension scheme.

6. Annexure A/4 is the circular of the DPO BRG dated 4th August, 1987 by which the last date of exercising for option for pension was 30th September, 1987 and if no option form for pension was received by the Supervisory Staff by 30th September, 1987, the employee were deemed to have come over to the Pension Scheme. The applicant having revoked his earlier option for SRPF contributing scheme by letter Annexure A/6 dated 25th September, 1987, he would by virtue of Annexure A/4 be entitled to settlement as per the pension scheme and as observed above copy of Annexure A/6 is on file of the respondents.

7. Hence the following order is passed:

The respondent No. 2 or the Competent Authority entitled to decide such case to pass order considering the letters on record including Annexure A/6 keeping in mind the circular dated 4th August, 1987, Annexure A/4 and if according to that circular the applicant is entitled to

get the benefit of pension scheme, the appropriate order be passed in his favour. The application thus is partly allowed and disposed of accordingly with no order as to costs. If the applicant feels aggrieved by ultimately order of the respondents, he would be entitled to approach this Tribunal.

*Renu*  
(R.C. Bhatt)  
Member (J)

\*K

DATE	OFFICE REPORT	ORDERS
14.5.93		<p>None is present for the applicant.</p> <p>M.A. 214/93 is filed by the original respondents for extension of time for compliance of our order dated 11th June, 1992 in O.A. 445/89. This M.A. is filed in the Registry on 22nd December, 1992 and the prayer for extension of time is for three months from that date. Therefore, the time has already expired at the end of March 1993. Hence this application has become infructuous and is rejected.</p> <p><u>M.R.Kolhatkar</u></p> <p>(M.R.Kolhatkar) Member (A)</p> <p><u>R.C.Bhatt</u></p> <p>(R.C.Bhatt) Member (J)</p> <p>vtc.</p>

DATE	OFFICE REPORT	ORDERS
21.6.93		<p>Heard applicant-in-person. Mr.N.S.Shevde is present for the respondents. This M.A. seems to have been filed by misapprehension of facts and law both. The applicant seems to be under the impression that O.A.445/89 is pending before us which is not factually correct because that O.A. 445/89 is disposed of by judgment on 11th June, 1992. More over the applicant submits that as this Tribunal directed the applicant that in case he feels aggrieved by ultimate order of the respondents he would be entitled to approach this Tribunal and hence he can file M.A.in O.A. which is disposed of. This is also not correct because if he is aggrieved by the ultimate order of the respondents, the Tribunal has given him an opportunity to approach the Tribunal, meaning thereby that he can file a substantive application and not M.A in O.A which is disposed of. Hence M.A. is not maintainable and disposed of.</p> <p style="text-align: right;"><i>Res</i></p> <p style="text-align: right;">(R.C.Bhatt) Member (J)</p> <p>vtc.</p>