

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

Original Application No.42 of 1991.

Date of decision : January 12, 1993.

Surendranath Bastia . . .

Applicant.

versus

Union of India and others ...

Respondents.

For the applicant ...

Mr. J. N. Jethi,
Advocate.

For the respondents ...

Mr. L. Mohapatra,
Standing Counsel (Railways)

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C O R A M :

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN

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1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ?
3. Whether His Lordship wishes to see the fair copy of the judgment? Yes.

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JUDGMENT

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K.P. ACHARYA, V.C., In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to direct the respondents to issue an order for payment of ex-gratia with effect from 1.1.1986 as per the recommendation of the Fourth Pay Commission.

2. Shortly stated, the case of the applicant is that he retired from Railway Service with effect from 5.10.1962 while working as a Head Record Keeper in the Office of D.T. Controller of Stores, South Eastern Railway, Kharagpur. The applicant retired from service with contributory provident funds. The grievance of the applicant is that he has not received any pension or ex gratia amount. Hence, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that the applicant had never opted to switch over to the pension scheme and therefore the applicant has not been given the pension. The applicant has been paid contributory provident fund amount at the time of his retirement and without any grudge the applicant has received the amount. Hence it is too late in the day for the applicant to put forth an ill-founded grievance.

4. I have heard Mr. J.N. Jethi, learned counsel for the applicant and Mr. L. Mohapatra, learned Standing Counsel (Railways) for the respondents. Mr. Mohapatra contended that heavy onus lies on the applicant to convince this Bench that he had opted to switch over to the pension scheme by the cut off date i.e. 1972.

There being no such evidence placed by the applicant, it should be held that the applicant has failed to discharge ~~the~~ ^{the} onus that lay on him. Therefore, he is not entitled to receive any pension. I find there is substantial force in the contention of Mr. Mohapatra.

5. As regards the payment of ex-gratia such prayed by two other employees forming two separate applications, having already been dismissed, I find no justifiable reason to make a departure from the view already taken in those two cases.

6. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

Agarwal ^{Ans}
12.1.93

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VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack,
January 12, 1993/Sarangi

