

Serial No. of Order	Date of Order	Order with Signature	Office note as to action (if any) taken on order
27.	17.12.96	<p style="text-align: center;"><u>O.A.No.568 of 1993.</u></p> <p>In this O.A. the applicant prays for the following relief :</p> <p>A direction be issued to the respondents to pay the outstanding deposits in the Provident Fund Account, Group Insurance claims, Graduity, to sanction pension and other pensionary benefits and grant any other relief to him.</p> <p>2. The applicant was recruited into the Railway service as a Gangman on 21.7.44. He was promoted to the rank of Gate-Keeper subsequently. He retired on superannuation on 31.5.79. After hearing the counsel for the respondents Sri L.Mohapatra and as Sri B.K.Beura was already heard on 14.8.96, this O.A. is disposed of as under.</p> <p>3. In the counter affidavit it has been clearly averred that the applicant was paid P.F. dues (compulsory) Rs.6358.00 and P.F.(Bonus) dues Rs.5943.00. With regard to the Provident Fund(SCPF) dues of Rs.5520.24, it was stated that the bill was passed under C07 No.SC/478707 dated 20.3.80. At para-5 of the counter payments of Rs.6358.00 relating to P.F.(compulsory) and Rs.5943.00 towards P.F.(Bonus) dues have been reiterated. These payments have been made on 24.5.79. In his rejoinder, the applicant stated that the Special Contributory Provident Fund dues amounting to Rs.5520.24 stated to have been</p>	

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		<p style="text-align: center;">- 2 -</p> <p>...27 dt.17.12.96. passed for payment on 20.3.80 has not <del>reached</del> probably contd.</p> <p>reached him. The respondents shall verify the same and if it has not been paid either by inadvertence or for some other reason, they shall ensure that the said amount reaches the hands of the applicant within three weeks from the date of receipt of a copy of this order.</p> <p>4. With regard to Group Insurance, it has been made clear by Sri L.Mohapatra, counsel for the respondents that this scheme has come into vogue on 1.1.82 and there was no such scheme when the applicant retired from service.</p> <p>With regard to <del>the</del> pension and other pensionary benefits and gratuity, it is stated that the applicant did not exercise his option to come under the Pension rules while he was in railway service. Therefore, he is not eligible for the gratuity or D.C.R.G. The onus is on the applicant to state categorically whether he has exercised his <del>option</del> or not. He has been supremely evasive and never committed himself about exercising option.</p> <p>The respondents have categorically stated that he did not exercise option. In response to a query from this Court on 15.3.95 read with the orders of this Court on 14.8.96, the respondents have filed a clarification dt.1.10.96. It has been made very clear that a railway servant who does not exercise his option within the prescribed period or quits service</p>	

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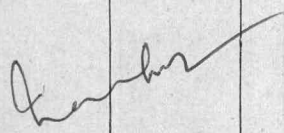
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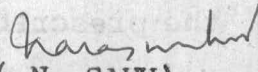
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27 dt.17.12.96  
contd.

or dies without exercising an option or in case of retirees whose option is incomplete or conditional or ambiguous, shall be deemed to have opted to remain under the existing State Railway Provident Fund (Contributors) Benefits. There is no evidence whatsoever that the applicant had exercised his option either to the pension system introduced from 16.11.57 or to the option invited under Establishment Serial No.22/64. Under this circular, option should be communicated in the standard form by the Railway servant concerned to the Head of office. The responsibility is cast on him by this circular to exercise the option within the prescribed period and should ensure and preserve the acknowledgement thereof. No evidence is forthcoming in this regard from the applicant. Under/Serial No.265/79 another opportunity <sup>has been</sup> ~~is~~ given for exercising this option. This option shall be valid if the official refunds the entire Govt. contribution and the excess of SCPF over DCRG due to him/ her under Pension rules. There is no mention or whisper about refund in this O.A.

4. The respondents have categorically stated that neither under the pension scheme introduced from 16.11.57 or under the optionn called for by Establishment Serial No.22/64 or Estt.Serial No.265/79, the applicant had ever exercised his option. In his rejoinder at page-2 the applicant says that he had never been asked to exercise option. An option is a voluntary act and any voluntary act done should be in the personal



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27 dt.17.12.96 contd.		<p style="text-align: center;">- 4 -</p> <p>knowledge of the applicant and he is expected to establish his claim by filing proper evidence. I am satisfied that in spite of several opportunities, the applicant has not been able to even state categorically that he had exercised his option to come under the 1957 Pension scheme. In this view of the matter, I find no merit in this application; except the direction that if the amount of Rs.5520.24 p. which is the special contribution to the Provident Fund dues has not been paid so far, though passed for payment since 20.3.80, the same shall be paid within three weeks. There is no merit in any other contention in this O.A. The O.A. is partly allowed. No costs.</p> <p style="text-align: right;">             ( N. SAHU )            MEMBER (ADMINISTRATIVE).         </p> <p style="text-align: right;">17/12/96</p>	