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OA. 39/2000

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Order dated 27.2.2002

Heard Shri D.K.Patnaik, learned counsel for the applicant and Shri R.C.Rath, learned A.S.C. for the Respondents.

In this case the applicant claims that he was engaged in the "South Institute" under the S.E.Railways at Kharagpur right from 1944 till his retirement in 1978 ^{and that} he submitted a representation on 11.11.1999 to the General Manager, S.E. Railways under Annexure-4 seeking pensionary benefits from the Railways. Within three months thereafter, the applicant filed the present Original Application seeking direction to respondents to provide him pensionary benefits.

In the counter, Respondents have stated that there are no materials to show that the applicant was ever an employee of the Railways. It has been stated by the Respondents that the "South Institute" is a Recreation Club of the Railways Employees and persons engaged in that Institute are never treated as employees of the Railways and, as such, the applicant is not entitled to pensionary benefits, as available to the employees of the Railways. This apart, Shri R.C. Rath, the learned A.S.C. for the Railways pointed out that the applicant having faced retirement in 1978 has claimed pensionary benefits after a lapse of more than 20 years and as such his claim as above is to be treated as suffering from 'delay and laches'.

So far as claim for pensionary benefits is concerned, delay and laches cannot stand in the way, because, if anybody is statutorily

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entitled to get pension, the same becomes a continuing cause of action and therefore, delay in approaching the Court/Tribunal cannot stand in his way. In this view of the matter, the matter has to be examined as to whether the applicant was ever engaged as an employee under the S.E.Railways and consequently he is entitled to get pension.

The documents produced by the applicant under Annexure-1 series go to show that he was engaged by the Secretary of the S.E.Railway South Institute, Kharagpur and he faced retirement in November, 1978, by the order of the President of the said Institute, under the signature of the Vice President. In view of this, I hold that the applicant has miserably failed to substantiate his case that he was ever engaged and/or an employee of the Railway and, therefore, his claim to get the pensionary benefits from the Railways cannot be entertained.

It is stated by Shri Patnaik, the learned counsel for the applicant that this South Institute is funded by the Railways under a Grant-in-Aid Scheme. On a careful examination of the said scheme, as produced by Shri Patnaik, I am not at all convinced that the applicant was in fact an employee of the Railway.

In view of the discussions held above, I hold that the applicant is not entitled to any of the reliefs prayed for in this Original Application, which is accordingly dismissed. No costs.

MEMBER (JUDICIAL)

Free copies of final
order dt. 27.2.2002
issued to counsel for
both sides.

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S.O.(J)

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27/02/2002