

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. No.1108 of 1996

Present: Hon'ble Dr. B.C. Sarma, Administrative Member

RAMADHAR

VS

1. Union of India, represented by
General Manager, Eastern Railway
17, Netaji Subhas Road
Calcutta-1

2. Divisional Railway Manager,
Eastern Railway, Asansol Division
Asansol, Dist. Burdwan

3. Sr. Divisional Personnel Manager
Eastern Railway, Asansol Division
Asansol, Dist. Burdwan

4. Sr. Divisional Engineer,
Asansol Division, Eastern Railway,
Asansol, Dist. Burdwan

..... Respondents

For the Applicant : Mr. N. Ganguly, counsel

For the Respondents: Mr. P.K. Arora, counsel

Heard on 25.5.1997

: :

Date of order: 25.4.1997

O R D E R

The applicant in this case had joined the Eastern on 24.6.45 as Blacksmith Helper and he retired from service on attaining the age of superannuation 29.5.73. The applicant contends that while in service under the respondents, he had neither been informed about the pension scheme nor have been asked for option of the same and naturally he had been retired under the provident fund scheme. Thereafter he had approached the respondents to allow him to come under the pensin scheme, but that has been denied to him. Being aggrieved thereby, the instant application has been filed with a prayer that a direction be issued on the respondents to bring the applicnt under the pension scheme and to pay him the pension with effect from 29.6.73 taking back the amounts paid to him in the accounts of provident fund scheme.



2. The case has been opposed by the respondents by filing to a reply. The contention made by the respondents has been that/the staff appointed before 1957 adequate chances were given to opt for pension scheme, failing which they would be guided under S.R.P.F. The applicant was appointed to Railway Service with effect from 24.6.45 and as he did not opt for pension scheme before his retirement with effect from 29.5.73, he was guided under SRPF scheme and his settlement dues under this scheme were paid to him as stated at para (vi) of the reply. They have, therefore, prayed for the dismissal of the application on the ground of being devoid of merit.

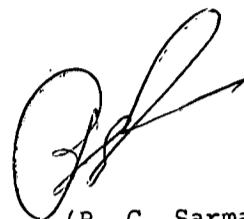
3. During the hearing Mr. Ganguly, learned counsel informed that the applicant mainly emphasises on two points. First is that no individual notice was sent to the applicant about the pension scheme, as a result of which he was kept totally in the dark about the benefit of the pension scheme and he could not exercise his option for the pension scheme. The second point of Mr. Ganguly is the judgment of the Hon'ble Apex in the case of R. Subramaniam v. Chief Personnel Officer, Central Railway, Ministry of Railway, reported in AIR 1995 SC 983. Mr. Ganguly argued that since the concerned Railway did not grant the benefit of pension under the pension scheme, the applicant therein had filed an OA before the Bombay Bench of this Tribunal and the decision rendered by the Bombay Bench of the Tribunal was upheld by the Hon'ble Apex Court in Subramaniam's case. Mr. Ganguly also mentioned about the decision of the Hon'ble Apex Court in the case of Union of India & others v. D.R.R. Sastri, reported in 1997(1) SCSLJ 148 in which the SLP filed by the Union of India was dismissed and the order of the Tribunal was upheld. Accordingly, Mr. Ganguly submitted that the applicant is entitled to get the benefit of the pension scheme.

4. However, Mr. Arora, learned counsel for the respondent submitted that the law in this case was laid down by the Hon'ble Apex Court in Krishna Kumar's case, reported in 1990(4) SCC. This was a judgment of Constitution Bench comprising 5 Judges, with the matter of entitlement of the pension scheme in resp

I would also like to observe that based on the said decision the Division Bench of this Tribunal (to which I was also a party) delivered a judgment in OA 509/96 (Nepal Chandra Dey v. Union of India & Ors) on 6.3.97, wherein a similar petition was dismissed. Based on the said decision I have no doubt in mind that there is no justifiable ground on my part to interfere ^{with the impugned decision} in this case. The application is liable to be dismissed.

6. For the reasons given above the application is dismissed.

No order is passed as regards costs.



(B. C. Sarma)

MEMBER (A)

25.4.1997