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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH
JODHPUR.

Date of order: 26.11.1996.

O.A.NO.83 OF 1996.

GOURI SHANKER

... APPLICANT.

VERSUS

UNION OF INDIA AND OTHERS.

... RESPONDENTS.

...

PRESENT:

Mr.S.K.Vyas, counsel for the applicant.
Mr.R.K.Soni, counsel for the respondents.

...

CORAM:

THE HON'BLE MR.A.K.MISRA, (JUDICIAL MEMBER).

...

BY THE COURT :

This is an Application under Section 19 of the Administrative Tribunals Act, 1985, in which the applicant Shri Gouri Shanker, a retired Traffic Inspector (Safety), under the Divisional Railway Manager(Northern Railway), Jodhpur, is aggrieved by the order dated 19.12.1995 from the Respondent No. 4 denying his request for grant of an Exgratia payment.

2. The applicant had retired from the post of Traffic Inspector(Safety) on 1.2.1968 after attaining the age of superannuation. In 1957, when options for pensionary benefits were called by the Railway Board, the applicant had retained the State Railway Contributory Fund benefits. The Railways thereafter called fresh options from its employees from time to time but during the period from 1.7.1966 to 30.4.1968, no options for pensionary benefits were entertained and the applicant retired on 1.2.1968. It is alleged by the applicant that on representations from the Railway employees and Unions etc., the Railways from time to time invited options from the Railway employees and pensionary benefits were made available to State Railway Contributory Provident Fund retirees. It is further alleged by the applicant that the Railway Board vide its letter dated

30.6.1988 granted an exgratia payment @ Rs. 150/- per month and dearness relief as admissible thereon, w.e.f. 1.1.1986 to the widow/widower or eligible children of the deceased State Railway Contributory Provident Fund retirees. However, the employees who retired during the period from 8.7.1966 to 30.4.1968 and could not opt for pensionary benefits were granted no such benefits. Thus, the widows/widowers of the retired Government Provident Fund Optees have been benefited by way of an exgratia pension although such Railway employees had never chosen to opt for pensionary benefits whereas, the surviving Railway Contributory Provident Fund Optees have been granted no similar benefit and they are now being discriminated. He has prayed that all the Government Railway servants who have retired prior to 1.1.1986 with contributory provident fund benefits, may be granted exgratia payment from 1.1.1986 as is being granted to family members of the expired Railway servants who opted for contributory provident fund benefits.

3. The respondents have filed a reply to which a rejoinder has been filed by the applicant. In the reply, it has been mentioned that from time to time, Railway employees were asked to exercise the option of either retaining the contributory provident fund scheme or chose pensionary benefits scheme. Those Railway servants who opted for pensionary benefits scheme were granted pensionary benefits and those who retained the contributory provident fund scheme, were granted contributory provident fund benefits. The applicant did not chose to opt pensionary benefit scheme, therefore, he can not now claim any such benefit. It is the contention of the learned counsel for the respondents that exgratia payment is being made to the widow/widower or eligible children of a deceased Railway servant and while granting such benefit, the Railway administration does not look into the matter whether the expired Railway servant was a contributory provident fund optee or a pensionary benefits optee but in no case, such benefits are given to the surviving Railway servants. Since the applicant is alive, he can-not claim any exgratia monthly payment or can not say that as compared to the widow/widower of a Railway Provident Fund Optee, he is in disadvantage. It

has further been averred that the Hon'ble Supreme Court in its judgment reported in ATR 1990(2) 555, Shri Krishna Kumar and Others Vs. Union of India and Others, has settled the position and has expressed that contributory provident fund retirees and pensionary benefit retirees are two different classes by themselves and they cannot be equated with each other. In one case, the liability of the Government comes to an end on the settlement of contributory provident fund amount and in other case, the liability of Government starts from the date when Government servant retires. Thus, the applicant is not at all entitled to any relief whatsoever in the instant O.A. and the same deserves to be dismissed.

4. I have heard the learned counsel for both the parties and have gone through the records.

5. The exgratia payment as per the scheme of the Government, is granted to the widow/widower or eligible child/children of a retired Government servant, whether he retained the contributory provident fund benefits or not but such exgratia payment is not granted to a surviving Government servant. No doubt, while surviving Government servant does not get any such benefit because he opted to retain contributory provident fund benefits the family members as aforesaid of the Government servant, who retained contributory provident fund benefits, are granted exgratia payment. Thus, the surviving contributory provident fund optees are being paid nothing. However, in my opinion, this can not be a ground for claiming exgratia payment. The cause of action for securing/granting an exgratia pension to a particular person arises only on the death of a Government servant, therefore, during the life time of a retired Government servant, no such benefit can be given. As far as the averment regarding the IV Pay Commission, it is sufficient to say that the Recommendations of the IV Pay Commission was made to the Government. But the Government has not floated any beneficial scheme as per the suggestion of the Commission. Simply because recommendations were made to the Government by the Commission, the applicant can not claim any benefit or parity with the surviving family members of a

deceased Railway contributory provident fund retiree.

6. In the conspectus of facts and circumstances discussed herein above, I am of the view that no case of discrimination is made out. The Application deserves to be dismissed. The Original Application, therefore, is dismissed at the stage of admission.

7. No order as to costs.

Mehta 28/11/96

(A.K.MISRA)

Member (Judl).

Mehta

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Received Copy
V.L. Joshi
A.D.
61219

Part II and III destroyed
in my presence on 26/2/03
under the supervision of
section officer () as per
order dated 19/3/2003

Section officer (Record)