

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH: JODHPUR

Date of order : 10.07.1998

O.A. No. 145/1997

Shri Chhagan Lal S/o. Shri Champa Lal Purohit, aged about 73 years, resident of near Rest House, Holi Mangra, Nathdwara, Dist. Rajsamand, last employed on the post of Fitter under Fitter-Incharge, Mavli Jn., Distt. Udaipur, Western Railway.

... Applicant.

v e r s u s

1. Union of India through General Manager, Western Railway, Church Gate, Bombay.
2. Divisional Railway Manager, Western Railway, Ajmer Division, Ajmer.

... Respondents.

Mr. J.K. Kaushik, Counsel for the applicant.

Mr. R.K. Soni, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

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PER HON'BLE MR. A.K. MISRA

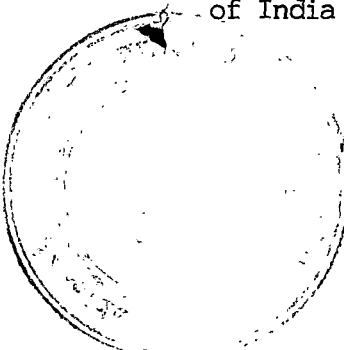
The applicant, who is a retired Railway servant, has filed this application with the prayer that the respondents be directed to accept the option of the applicant for switching over to the pension scheme as per the verdict of the Hon'ble Supreme Court and grant the pensionary benefits to the applicant under the pension scheme introduced by the respondents.

2. Notice of this O.A. was given to the respondents, who have filed their reply. In the reply, it has been mentioned that having once opted to take the benefit under S.R.P.F. Scheme, the applicant cannot be permitted to switch over to pensionary scheme by exercising the option as ^{per} the Railway Board's circular. It is also contended by the respondents that during the period when the applicant ^{was in} service, the scheme of pension was in force and the applicant could have very well exercised his option at that stage, but the applicant has consciously opted for S.R.P.F. scheme. Therefore, now after a lapse of 25 years of his retirement, the applicant cannot be

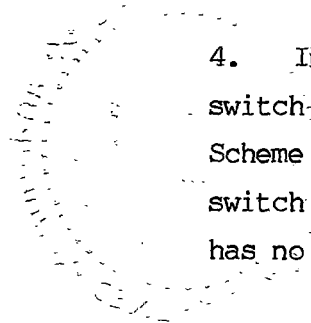
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permitted to switch over to pension scheme introduced by the respondents.

3. We have heard the learned counsel for the parties and gone the records. This is not disputed that the applicant retired in July, 1971, and by the time, many chances were available to him to opt for pension scheme. But the applicant did not exercise the option to switch over to the pension scheme. In the latest judgement delivered by the Hon'ble Supreme Court, reported in 1997 (1) S.L.J. Vol.63, page 16, Sh. V.K. Ramamurthy vs. Union of India & Anr., it has been held as follows :

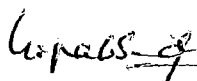


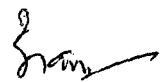
" Pension option, Pension v. PF - Petitioner retired in 1972, had opted for PF, now demands to be allowed to switch over to Pension - Fund PF is a fund and liability of Govt. starts the day the employee contributes it, for pension liability starts on the day he retires; also PF cannot be varied after retirement but Pension is increased with suitable reliefs even after retirement - Both being totally different no switch over can be allowed at this stage."



4. In view of the above ruling, the applicant cannot now be permitted to switch over to pension scheme. His option to take the benefit under S.R.P.F Scheme shall be treated as final and the applicant cannot be allowed to switch over to pension by exercising his option. The O.A., in our opinion, has no merit. The O.A. is, therefore, dismissed at the stage of admission.

5. Parties to bear their own costs.


(GOPAL SINGH)
Adm. Member


(A.K. MISRA)
Judl. Member

cvr.