

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR**

Date of Decision : 22.7.2003

O.A. No.309/2001.

Som Dutt Harsh son of Shri Hari Das Harsh resident of Lodo Ki Gali, Jodhpur Ex. Boiler Attendant, Ticket No.462 Shop No.4, Workshop, Northern Railway, Jodhpur.

... Applicant.

V e r s u s

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Jodhpur.
3. The Deputy Chief Mechanical Engineer, Northern Railway, Jodhpur.

...Respondents.

Mr. G.K.Vyas, counsel for the applicant.
Mr.Kamal Dave, counsel for respondents.

CORAM

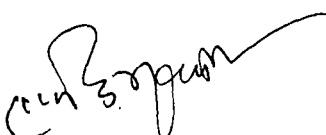
Hon'ble Mr.Justice G.L.Gupta, Vice-Chairman,
Hon'ble Mr. R.K.Upadhyaya, Administrative Member.

: O R D E R :

(R.K.Upadhyaya, Administrative Member)

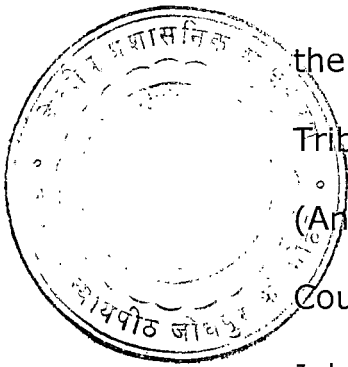
This Original Application filed under section 19 of the Administrative Tribunals Act, 1985 is directed against the order dt. 5.9.2000 (Annexure - A-1), by which the applicant has been informed that the benefit of pension cannot be extended to him.

2. It is stated by the applicant that he was appointed on the post of Boiler Attendant w.e.f. 1.12.1952. It is claimed that after putting in service for 16 years, he resigned from service. The




applicant was paid Rs.3,489/- towards the Provident Fund. The applicant claims that since he had submitted option for pension, he was very much entitled for grant of pension under the Pension Scheme. The applicant has placed reliance on the orders dt. 13.10.1996 in O.A. No.623/1991 passed by the Jabalpur Bench of this Tribunal, wherein resignation has been treated as Voluntary Retirement and the employee has been extended the benefit of pension. Based on the decision of the Jabalpur Bench of this Tribunal, the applicant had made a representation. Since the representation was not decided in his favour, the applicant had filed O.A. No. 89/1997 which was disposed of by this Tribunal by order dt. 25.4.2000 with a direction to the respondents to consider the representation of the applicant. Pursuant to that order of the Tribunal dt. 25.4.2000, the impugned order dt. 5.9.2000 (Annexure - A-1) has been issued. The claim of the Learned Counsel of the applicant is that based on the Judgment of the Jabalpur Bench of this Tribunal, certain employees have been granted benefit of pension. Since the applicant had rendered more than 10 years of qualifying service for the purpose of pension, he should also be paid pension. It is also stated that the applicant had sent his option for pension scheme, therefore, the rejection of the applicant's claim by the impugned order was not justified.

3. The Respondents have contested the claim of the applicant and have filed a reply. It has been stated that the applicant submitted his option for pension in April, 1988, i.e., after prescribed date for submission of option upto 14.7.1972. This was

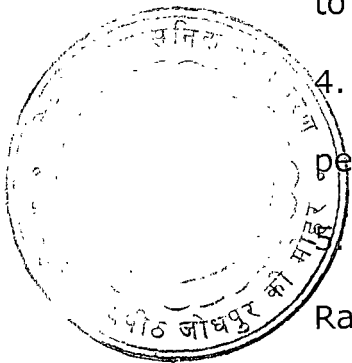


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even after the applicant had received the P.F. amount due to him after his resignation. The Respondents have contended that the present application is hopelessly barred by limitation and being a case of laches deserves to be rejected in limine. The applicant was informed that he was not entitled for pension scheme as per communication dt. 11.7.1988. Therefore, the cause of action had arisen on that date. The representation in the O.A. filed subsequently in the year 1997 is beyond the period of limitation. The Respondents have placed reliance on the Hon'ble Supreme Court decision in the case of Narayan Singh Vs. UOI & Ors. (2000 (9) SCC 321), in which similar claim for change of option from P.F. to Pension Scheme was rejected on account of delay and laches.

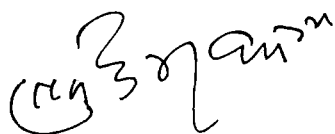
4. We have heard the Learned Counsel for the parties and have perused the material on record.

There is no dispute that the applicant had resigned from Railway Service w.e.f. 10.3.1969. Immediately thereafter, he had also received the balance in his P.F. account to which he was entitled. P.F. optees could change over to Pension Scheme upto 14.7.1972. It is also undisputed that the applicant did not exercise such an option before 14.7.1972. When he filed option, the same was rejected as delayed and the applicant was informed by letter dt. 11.7.1988. If the applicant was aggrieved by that decision of the Respondents, he should have agitated against the same immediately. The decision of the Hon'ble Supreme Court in the case of Narayan Singh (supra) was not available and so not considered when the Jabalpur Bench came to decide the O.A. in



Consignation

the year 1996. The Hon'ble Supreme Court has observed in the case of Narayan Singh that the appellant having resigned from service and accepted his provident fund and thereafter remained silent, his demand for change to pension scheme did not deserve to be entertained. In fact, the appellant was guilty of laches and therefore, not entitled to change his option for pension. On this short question, the Hon'ble Supreme Court dismissed the Appeal. In view of the decision of the Hon'ble Supreme Court, the applicant cannot be granted the relief as claimed. The applicant did not file his option to change to pension scheme before the due date in 1972. When he filed a belated option, the same was rejected vide letter dt. 11.7.1988. He did not challenge the rejection within a reasonable time. Therefore, this O.A. is rejected at the admission stage itself after considering the submission of both sides, without any orders as to costs.



(R.K.UPADHYAYA)
ADMINISTRATIVE MEMBER



(G.L.GUPTA)
VICE-CHAIRMAN

B.

Rec'd
for Mr. L. A. ...
2/10/10

Part II and III destroyed
in my presence on 2-4-30
under the supervision of
Section officer (j) as per
order dated 1-3-29

Section officer (Record) 2

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