

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.148/2001

Thursday this the 8th day of February, 2001

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

A.Kesavan, S/o Ayyar (Ex-Gangman
Southern Railway, Aluva) aged 70 years
residing at Vairavan Parambil House,
Elamakkara PO, Edappally,
Ernakulam District,Applicant

(By Advocate Mr. KC Eldho (through Mr.Jayapal Menon)

V.

1. Union of India represented by Secretary,
Railway Board, New Delhi.
2. Chief Personnel Officer,
Head Quarters, Southern Railway,
Madras.
3. Divisional Railway Manager,
Southern Railway,
Palghat Division,
Palghat.Respondents

(By Advocate Mr. Mathews J Nedumpara (rep.).

The application having been heard on 8.2.2001, the Tribunal
on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant who quit the service on 20.4.75 after
serving for 18 1/2 years as a Gangman since his appointment
dated 6.11.56 was not given any pension. He submitted
representation claiming pension opting for coming over to
the pension scheme. As the representation was not

considered and disposed of he approached the Tribunal in OA 1400/92 which was disposed by order dated 13.9.93 directing the respondents to consider the claim of the applicant in accordance with law. In obedience to the above direction the applicant's claim was considered and the impugned order dated 10.1.94 (Annexure.A5) was issued. After a lapse of seven years, the applicant has now filed this application seeking to have the impugned order set aside and for a declaration that the applicant is entitled to exercise option to change from provident fund scheme to pension scheme.

2. After hearing the learned counsel of the applicant and on perusal of the materials placed on record, we are of the considered view that the applicant does not have a cause of action much less a subsisting cause of action. In the impugned order the applicant was told that as the applicant has quitted the service on 20.4.75 before the attainment of age of 58 years and having served only eighteen and half years he was not entitled to any pension and that the period of service required for voluntary retirement was reduced to 20 years only in the year 1977. It is evident that the applicant did not have a valid claim for any sort of pension or for option to come over to the pension scheme. Even if he had come over to pension scheme unless he had put in the required period of service or had reached the age of superannuation he would not have been entitled to any pension. Further the impugned order was passed seven years back. If the applicant was aggrieved by the order, he should have filed the application under Section 19 of the

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Administrative Tribunals Act within a period of one year from the date of the impugned order. An application filed beyond the period of limitation being hopelessly barred by limitation is only to be rejected. The argument of the learned counsel for the applicant that the claim being one of pension, the applicant gets cause of action every month is untenable. We do not find any substance in this argument because once the applicant was told that he was not entitled to any pension at all then there is no question of a cause arising every month. If it had been a wrong fixation of pension and consequent payment below entitlement, then it could be argued that ^{when} every month pension is received, the person gets a cause of action. The situation in this case is not that. The applicant's claim was totally negated. The cause of action therefore arose on that date in 1994 and got time barred after expiry of one year.

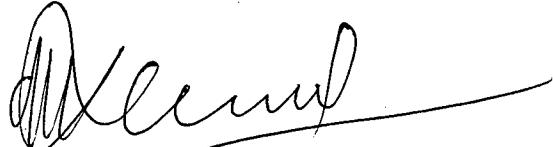
3. In the light of what is stated above, the application which is barred by limitation is rejected under Section 19(3) of the Administrative Tribunals Act. There is no order as to costs.

Dated the 8th day of February, 2001



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

{s}



A.V. HARIDASAN
VICE CHAIRMAN