

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.331/2001.

Thursday this the 30th day of January 2003.

CORAM:

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

P.Mohandas,
A.C/Mechanical, ERM - C (Ex-CHTS),
Southern Railway,
Residing at Purappadiyath House,
East Gramam, Chelakkara,
Trichur - 680586.

Applicant

(By Advocate Shri S.Radhakrishnan)

Vs.

1. Union of India represented by the
Secretary, Ministry of Railways,
Rail Bhawan, New Delhi.

2. The Divisional Personnel Officer,
Southern Railway,
Thiruvananthapuram.

Respondents

(By Advocate Smt. Sumathi Dandapani)

The application having been heard on 30.1.2003,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

The applicant aggrieved by the inaction on the part of the 2nd respondent to incorporate in the service records the option exercised by the applicant to count his Military service in the Railways for pensionary benefits, filed this O.A. seeking the following reliefs.

- a) call for the records connected with the case.
- b) declare that the option exercised by this applicant by way of Annexure A6 is valid and legal
- c) direct the 2nd respondent to enter and record the option exercised by the applicant by Annexure A6 in the service records enabling him to claim his military service as qualifying service for pension in the railways.



2. According to the averments in the O.A. the applicant was an ex-serviceman who joined the Indian Navy on 24.3.70. On 30.9.81, he was discharged from Naval service on expiry of the period of Bond, A-1 being the copy of certificate of release from the Indian Navy dated 4.8.81. After being discharged from the service of the Indian Navy, he was selected for appointment in Group D service as Electrical Khalasi (Air Conditioning) under the 2nd respondent against ex-serviceman quota, as per A-2 appointment order dated 25.4.1989.

3. According to the applicant at the time of joining service under the 2nd respondent despite being eligible for counting the period of Defence service for pensionary benefits in the Railways no option was either obtained or sought for from him by the 2nd respondent, as stipulated under Rule 34 of the Railway Services (Pension) Rules, 1993. He also referred to Railway Board's Order No.F.(E)III/88/PN-1/15 dated 2.8.88 in which it was specifically stated that the re-employed ex-servicemen were to exercise their option within a period of one year from the date of their re-employment. He submitted that in view of this, he could not exercise his option since no option was sought from him by the 2nd respondent. The Railway Board by its order No.F.(E)III 88/PN 1/15 dated 25.1.95 granted a last opportunity to re-employed military pensioners in Railway posts/services to exercise the option for counting of Military service as qualifying service, within a period of 6 months from the date of issue of the order. The applicant preferred A-6 representation dated 17.2.1995 requesting to treat his representation as exercise of his option for getting pensionary benefits under Rule 34 of the Railway Services (Pension) Rules, 1993. In June 2000 the applicant



perused his service records when he found that despite the exercise of option in 1995, there was no entry in his service records to the effect that he had exercised his option. Therefore, the applicant submitted A-7 representation dated 7.8.2000 requesting for treating his representation dated 17.2.95 as the exercise of his option. Understanding that no steps had been taken by the respondents to treat the said representation submitted by him as option exercised by him pursuant to A-4 letter with regard to counting of his Military service for pensionary benefits, the applicant filed this O.A. seeking the above reliefs.

4. The respondents filed a reply statement resisting the claim of the applicant. They submitted that the applicant had not proved that the service rendered by him in Military was liable to be counted as qualifying service for pension in Railways and without establishing the claim first, the applicant's prayer seeking for a direction to count the alleged service was not maintainable. It was also submitted that the applicant had not impleaded the military authorities in this O.A. whose views were necessary to be heard in view of the position explained. They admitted that the applicant had been appointed as a temporary Electrical Khalasi (Air Conditioning) w.e.f.12.5.89 in one of the vacancies meant for Ex-servicemen. It was submitted that on the basis of the representation dated 12.2.98 submitted by the applicant, his earlier representation dated 17.2.95 was collected from the Electrical Depot/Cochin Harbour Terminus, and was examined in detail and the respondents had addressed to the Bureau of Sailors, Bombay by letter dated



14.9.98 for the certification of service as well as the settlement dues received by the applicant. The Military authorities had returned the same by Annexure R-1 letter dated 3.12.98 stating that they were not having the relevant pay records. A subsequent letter dated 30.11.99 (Annexure R-2) was addressed to the Staff Officer, Bureau of Sailors, Mumbai explaining the necessity of such certificate. It was submitted that in the representation of the employee or in the Discharge Certificate, there was no indication about the details of settlement dues and because of the same no steps had been taken by the 2nd respondent with regard to the applicant's claim. They submitted that the details submitted by the applicant had not proved his service details and the settlement benefits he received in the military.

5. The applicant filed a rejoinder in which he annexed his Certificate of Service in the Indian Navy. It was also averred that he had received only Rs.3500/- as DCRG for his service in Navy and was not drawing any pension.

6. Today when the O.A. was taken up for final hearing learned counsel for the applicant submitted that, in the light of the averments of the respondents in the reply statement that, the representation submitted by the applicant dated 17.2.95 had been traced out by them and had taken further follow up action on the ~~the~~ applicant same, he would be satisfied if he is permitted to file a detailed representation to the 2nd respondent indicating therein the settlement and other dues received by him as well as all the particulars available with him regarding the service in the Navy,



so that the said respondent could decide the matter on merits treating his representation dated 17.2.95 as a valid option exercised by him. Learned counsel for the respondents submitted that, as the respondents had already admitted that they traced out the representation submitted by the applicant dated 17.2.95, there is no objection in adopting the above course of action.

7. In the light of the above submissions, we dispose of this O.A. permitting the applicant to submit a representation as stated above to the 2nd respondent, within a period of one month from today along with all the particulars in his possession regarding his Naval service including settlement dues received and directing the 2nd respondent on receipt of the said representation, to consider the same on merits and pass appropriate orders within a period of three months from the date of receipt of the representation. In the light of the specific averments of the respondents in the reply statement that they had traced out the representation of the applicant dated 17.2.95, we direct that, the 2nd respondent shall not reject the claim of the applicant on the ground that the applicant had not exercised his option within the period stipulated in A-5 letter of the Railway Board.

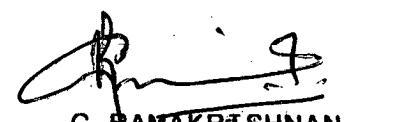
8. The O.A. stands disposed of as above. The parties shall bear their own costs.

Dated the 30th January 2003.



K.V.SACHIDANANDAN
JUDICIAL MEMBER

rv



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER