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CAT/1/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW BOMBAY BENCH~~  
NEW BOMBAY BENCH

O.A. No. 236/89  
~~TXAXXNO.~~

198

DATE OF DECISION 4.7.1989

Shri M.G.Sawant Petitioner

Shri D.V.Gangal Advocate for the Petitioner(s)

Versus

General Manager, C.Rly. Bombay V.T. Respondents  
and others.

Shri S.C.Dhawan Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.B.Mujumdar, Member (J)

The Hon'ble Mr. M.Y.Priolkar, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

(4)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY 400 614

OA.NO. 236/89

Shri M.G.Sawant  
R/o. JN-3/16/13, Sector 9,  
Vashi, New Bombay.

... Applicant

V/S.

1. General Manager,  
Central Railway, Bombay V.T.

2. Chief Workshop Manager,  
Locomotive Workshop,  
Central Railway, Parel,  
Bombay-12.

3. Chief Personnel Officer,  
Central Railway, Bombay V.T.

... Respondents

CORAM: Hon'ble Member (J) Shri M.B.Mujumdar  
Hon'ble Member (A) Shri M.Y.Priolkar

Appearances :

Mr.D.V.Gangal  
Advocate  
for the Applicant

Mr.S.C.Dhawan  
Advocate  
for the Respondents

ORAL JUDGMENT

Dated: 4.7.1989

(PER: M.B.Mujumdar, Member (J))

By our order dated 14.6.1989 we have kept this case for admission and if possible for final disposal today. As the point involved is a short one, we are disposing of the application finally.

2. Tr.A.No. 27/87 filed by Shri Ghanshyam Das and Shri A.D'Souza was decided by the judgment delivered on 11.11.1987. The following order was passed in that judgment :-

"In the result, we pass the following orders:

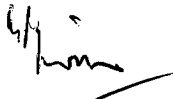
- i) The respondents are directed to hold that the applicants were entitled to the benefit of the pension scheme since their retirement and to determine the pension due to them according to the rules in existence at the time of their retirement taking into consideration the amendments made to the rules there after.
- ii) The respondents will be entitled to recover all the amount from the applicants which would not have been due to them if they had opted in favour of pension before their retirement.
- iii) The respondents shall calculate the arrears of pension due to the applicants and after deducting the amounts due from the latter as per clause (ii) of this order, pay the balance, if any, to the applicants.
- iv) No interest is to be charged on the amounts due to each other.
- v) The above order should be implemented as early as possible and in any case within four months from the receipt of a copy of this order.
- vi) The respondents are directed to implement the directions given in clause (i) to (iv) of this order in respect of all the railway employees who were similarly placed like the applicants, i.e. those who retired during the period from 1.4.69 to 14.7.72 and who had indicated their option in favour of pension scheme either at any time while in service or after their retirement and who now desire to opt for the pension scheme.
- vii) Parties to bear their own costs."

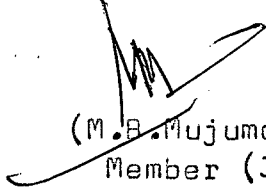
3. The applicant retired as Fitter from the Parel Workshop of Central Railway on 1.6.1972<sup>2</sup>. ~~He had made a representation dated 3.4.1978.~~ He was governed by the State Railway Provident Fund Rules. But on 3.4.1978 he made a representation for granting him pension. As no reply was received even thereafter he continued sending reminders/representations till 22.9.1987. Copies of all the reminders/representations are annexed to the application. On 6.5.1988 the respondents replied to one of the representations of the applicant and informed him that the request for pension cannot be agreed to at that stage. Hence, on 21.3.1989 he has filed the present application for directing the respondents to implement clause (vi) of the order in the judgment dated 11.11.1987 as he has retired during the period mentioned in that clause.

4. We have just now heard Mr.D.V.Gangal, learned advocate for the applicant and Mr.S.C.Dhawan, learned advocate for the respondents. Mr.Dhawan stated that the order is implemented so far as the applicants in Tr.No. 27/87 are concerned. However, the direction given in clause (vi) of the order is not implemented so far because though the SLP preferred against the judgment was rejected, the review petition filed in March, 1988 is still pending in the Supreme Court. But the Supreme Court has not granted any stay on the direction given in clause (vi) of the order. Still Mr.Dhawan submitted that if some reasonable time is given by this Tribunal, the respondents would implement it unless the direction is set aside by the Supreme Court on review petition. It was not disputed that if the direction in clause (vi) is implemented the applicant would get benefit of the judgment because he has retired on 1.6.1972.

5. Hence, we pass the following order :-

Respondents shall implement the direction given in clause (vi) of the order in para 11 of the judgment dated 11.11.1987 in Tr.No. 27/87 on or before 10.11.1989, unless the Supreme Court stays or sets aside the judgment before that date. We further direct that the respondents may ask the applicant within one month from today as to which formalities he should fulfil and the applicant should fulfil these formalities within one month from the intimation. OA. 236/89 is finally disposed of on the above lines with no orders as to costs.

  
(M.Y. Priolkar)  
Member (A)

  
(M.B. Mujumdar)  
Member (J)