

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

(3)

O.A. No. 806/89

~~XXXXXX~~ No.

198

DATE OF DECISION 22.1.1990

Shri Namdeo M. Gotarane PetitionerMr.D.V.Gangal with Mr.V.G.Pasthe Advocate for the Petitioner(s)

Versus

Union of India & ors. Respondent sAdvocate 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

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

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OA.NO. 806/89

Shri Namdeo M. Gotarane

... Applicant

V/S.

Union of India & Ors.

... Respondents

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

Appearance

Mr. D.V.Gangal with  
Mr. V.G.Pasthe  
Advocates  
for the Applicant

ORAL JUDGMENT

Dated: 22.1.1990

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

In view of the judgment of this Tribunal in Tr.27/87 decided on 11.11.87, especially clause (vi) of the order, the applicant should not have been required to approach this Tribunal. But inspite of his representation after the judgment, the respondents have not even cared to reply to that representation.

2. The applicant joined Western Railway as Workman in 1933. He has retired on 1.7.1970 while he was working as Marker under the goods Superintendent, Carnac Bridge, Bombay. He was governed by the State Railway Provident Fund Scheme and hence he could not get pension after his retirement. However, he submitted two representations dated 24.6.1978 and 15.10.1982 opting for pensionary benefits. But according to the applicant these representations were not replied to.

3. Two retired railway employees had filed writ petition No. 1556/83 in the High Court of Judicature at Bombay for getting pension. That writ petition was transferred to this Tribunal.

under Section 29 of the Administrative Tribunals Act 1985 and in this Tribunal it was numbered as Tr.A.No. 27/87. After hearing both the sides that application was decided on 11.11.87. The following order is passed in that case :

"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 thereafter.
- 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 (2) 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 clauses (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."

4. Against that judgment the respondents had preferred SLP in the Supreme Court but it was dismissed on 5.9.1988.

5. Thereafter, the applicant had submitted representation dated 6.9.1989 requesting for giving him pensionary benefits as mentioned in clause (vi) of the order. As no reply was received,


he has filed this application under Section 19 of the Administrative Tribunals Act praying for similar benefits which were given to the applicants in Tr.A.No. 27/87.


6. By order dated 21.11.1989 we had issued notices to the respondents informing that on 8.1.1990 the application may be finally disposed of in view of the directions in para 11 (vi) of the judgment dated 11.11.87 in Tr.A.No. 27/87. The notice was served on Respondent No. 3. But nobody remained present on 8.1.1990 on behalf of the respondents. On 8.1.1990 when the case came before us we directed that fresh notices be issued to the respondents informing that the application would be disposed of on 22.1.1990, i.e. today, in view of the directions in para 11 (vi) of the judgment dated 11.11.87, unless respondents show some cause. Hamdast was allowed and Mr. Gangal, learned advocate for the applicant stated that notices are served on the respondents. But still none is present for the respondents. Moreover, the facts of this case and the facts in Tr.A.No. 27/87 are similar. Hence, we propose to dispose of this case finally by passing the following order :

- (i) Respondents are directed to hold that the applicant was entitled to the benefit of pensionary scheme since his retirement and determine his pension according to rules.
- (ii) The respondents will be entitled to recover all the amounts from the applicant which would not have been due to him if he had opted in favour of pension before his retirement.
- (iii) The respondents shall calculate the arrears of pension due to the applicant and after deducting the amounts due from the latter as per clause (ii) of this order, pay the balance, if any, to the applicant.

(2)

- (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) As the respondents have not opposed the application, we make no order as to costs.

  
(M.Y. PRIOLKAR)  
MEMBER (A)

  
(M.B. MUZUMDAR)  
MEMBER (J)

Judgment dt. 22.1.90  
sent to parties on  
5.3.90.

16/3/90

Judgment dt. 22.1.90  
served on R. Nos  
223<sup>on</sup> 6.3.90 &  
7.3.90 respectively.

886  
14.3.90