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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY - 1.

OA No. 677/89

G.D. Patil

..Applicant

v/s.

Union of India & Ors.

..Respondents

Coram: Hon. Shri Justice M.S.Deshpande, V.C.
Hon. Shri M Y Priolkar, Member (A)

APPEARANCE:

Mr. D.V. Gangal
counsel
for the applicant

Mr. S. Joshi
Counsel
for the respondents

ORAL JUDGMENT:

(Per: M.Y. Priolkar, Member (A))

DATED: 24.11.1993

The two applicants in this case are railway employees who retired on superannuation on 1.7.1967 and 1.7.1973 respectively. The retirement benefits were settled under the Railway Provident Fund Rules, which was compulsory for all railway employees prior to 1.4.1957. A pension scheme was, however, introduced for railway employees from that date and the railway employees were required to opt either for pension scheme or continue with the Provident Fund Scheme within a prescribed period. This prescribed date for exercising the option for pension was however extended for certain periods with the result that such option was available only during certain periods but not during others.

2. The grievance of the applicants is that on the date of their retirement on super-annuation

the option for changing over to pension scheme was not available to them and that is why they were prevented from exercising the option to come over to the pension scheme. The prayer of the applicants is for a declaration that they are entitled to pensionary benefits after their retirement, subject to adjustment of Provident Fund amounts already paid to them.

3. The case of the applicants is that they are fully covered by this Tribunal's judgment in the case of GHANSHAM DASS decided by the New Bombay Bench on 11.11.1987 (Tr.A. No. 27/1987) in which a direction was given that all railway employees who retired during the period from 1.4.1969 to 14.7.1972 and 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 should be given the benefit of the pension scheme. The learned counsel for the applicants argued ^{that} the SLP filed against this decision of the Tribunal has been dismissed and further the Review Petition No. 169/89 against the order passed in that SLP has also been dismissed by the Supreme Court on merits. The learned counsel, therefore, contended that this Tribunal's judgment in the case of GHANSHAM DAS has now become final and binding and that this is also admitted in the circular of the Railway Board dated 2.1.1992 and therefore the applicants are entitled to the benefits of the GHANSHAM DAS judgment.

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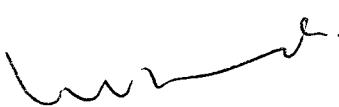
4. This very question had come up for consideration before a Bench of this Tribunal of which one of us was a party (Shri M.Y. Priolkar, Member (A)) and while giving a detailed judgment dated 9.2.93 in O.A No. 915/89 we have rejected both the contentions of the learned counsel for the applicant in that case who also happens to be the counsel for the present applicants viz., that this Tribunal's judgment dated 11.11.1987 in the case of GHANSHAM DAS is still good law even after the five judges Bench judgment of the Supreme Court in KRISHNA KUMAR's case (AIR 1990 SC 1782) or that the applicant is entitled to the benefits of the Railway Board circular dated 2.1.1992 without insisting on the specific conditions stipulated therein that they should have exercised the option for pension scheme either during service or after their retirement and in no case later than 31.12.1972. We are in agreement with the reasons given and the conclusions reached in our judgment cited above dated 9.2.93.

5. The learned counsel for the applicants also brought to our notice a recent judgment of the Full Bench of this Tribunal at Bangalore in the case of ILHAS MOHAMAD V. UNION OF INDIA and argued that this being a decision of the Tribunal of a general applicability, even if an O.A. is filed for similar reliefs granted in another case, the Tribunal may convert it into a contempt petition and deal with it accordingly. But, even if the present O.A. is

treated as a contempt petition, we see no case for contempt made out, in view of the subsequent decision of the Supreme Court in KRISHNA KUMAR's case laying down the law on this question, which is contrary to the earlier judgment of the Tribunal in GHANSHAM DAS and the respondents are evidently bound to follow the law laid down in KRISHNA KUMAR's case. In fact, as stated in the earlier decision of this Tribunal dated 9.2.93, we had specifically mentioned that one of the petitioners in the other cases decided along with KRISHNA KUMAR's case was covered by the GHANSHAM DAS case have retired between 1969 and 1972, but even then the Supreme Court has not thought it fit to grant any relief to that petitioner although he was squarely covered by the Tribunal's judgment in the GHANSHAM DAS's case. Our view, therefore, was that the review order of the Supreme Court rejecting the petition against their order on SLP against the Tribunal's order in GHANSHAM DAS case cannot reverse the binding law laid down by the five judges bench of the Supreme Court in KRISHNA KUMAR's case.

6. In view of the above, we see no contempt, much less any wilful disobedience of our judgment dated 11.11.1987 in GHANSHAM DAS case. This O.A is accordingly dismissed with no order as to costs.


(M Y Priolkar)
Member (I.A)


(M.S. Deshpande)
V.C.