

Mr.D.V.Gangal, Advocate for the applicant and Mr. Subodh Joshi, Advocate for the respondents.

2. The question involved in this petition is squarely covered by the decision of this Tribunal in the case of Ghansham Das and another v. Chief Personnel Officer, Central Railway, Tr.A.No. 27/87 decided on 11.11.1987. The Supreme Court has dismissed the S.L.P. filed against the said decision.

3. It is not disputed that the facts of this case are similar to those in the case of Ghansham Das. As in that case, the applicant too retired on 14.4.1970 during the period from 1.4.69 to 14.7.72 during which period option for pension was not made available to the applicant and other employees similarly situated. The directions given in the said application by the Bench of this court are as under :-

- "(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."

4. Since the points involved and the facts in the case of Ghansham Das and in this case are similar, we pass the following order :-

- (i) The respondents are directed to hold that the applicant was entitled to the benefit of the pension scheme since his retirement and to determine the pension due to him according to the rules in existence at the time of his retirement taking into consideration the amendments made to the rules thereafter.
- (ii) The respondents will be entitled to recover all the amount 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 (2) of this order, pay the balance, if any, to the applicant.
- (iv) No interest is to be charged on the amounts due to each other.

5. We further direct that this order should be implemented within a period of four months from today. The general directions contained in direction 6 of the aforesaid order has not been implemented in respect of the petitioner and he has been driven to file this petition. We direct that the respondents should pay costs to the petitioner quantified at Rs.300/-.

6. Mr. Gangal states that the petitioner is in hospital and is bed ridden. He submits that the respondents may be directed to depute some official to the Hospital for completing the formalities on the part of the petitioner. We grant this request. Respondents to do the needful. Mr. Gangal to furnish the name of the hospital and other particulars to Mr. Ajay Kumar Tiwari, Senior Clerk, DRM Office, who is present in the court today.

*P. S. Chaudhuri*  
(P. S. CHAUDHURI)  
Member (A)

*P. S. Shah*  
(P. S. SHAH)  
Vice Chairman

Order dtd. 6/9/89  
Send to parties  
on 26/9/89.

Chkd  
26/9/89

Order dtd G-9-89  
Searched in Applicd  
or dtd 28-9-89

13  
3/10/89

M.P. No. 16/90 for  
extension of time,  
fixed on 18/1/90.

886  
9/1/90

Date: 18-1-1990

(1)

Heard Mr. Subodh Joshi

for the Respondents.

By judgment dated

6.9.89 certain directions were given to the respondents regarding pension and means of pension due to the applicant. The directions were to be implemented within 4 months from the date of judgment.

The Respondents have filed

M.P. No. 16/90 on 3.1.1990 for (i) staying the operation of the judgment and (ii) extend the time for implementation in order to get decision on the important question of law which is to be settled by the Supreme Court.

We may point out that the order was passed in view of the order in a judgment in Chaudhary Das and another v. Chief Personnel Officer, Central Railway, in Tr. A. No. 27/87 decided on 11-11-1987. Respondents had preferred an SLP against that judgment but it was rejected by the Supreme Court.

In M.P. 16/90 the respondents have not even expressed their desire to go to the Supreme Court against the judgment dtd. 6.9.89. Reason is clear and it is because of the rejection of the SLP by the Supreme Court against the judgment in Tr. A. No. 27/87 dtd.

11.11.1987. If the point is pending before the Supreme Court in <sup>another</sup> case

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(5)

that will not be a ground for staying the operation of the judgment in this case nor for extending the period for implementation. Hence we are inclined to reject H.P. 16/90. Still as the period for implementation has already expired we grant two months more time for implementing the directions.

Respondents to implement the directions on or before 6.3.90 unless they bring a stay from the Supreme Court. The applicant is a old person and we warn that if the order is not implemented by that date the respondents would be liable for contempt of Court.

Order dt 18.1.90  
Send to parties  
on 23.1.90.

Sublech

order dt 18.1.90  
Served on Applicant  
on dt 29.1.90

N.M.  
31.1.90

M.P. No. 162/90 for  
extension of time,  
fixed on 23/3/90.

856  
9/3/90

H.Y. PRIOH KAR (H.Y. PRIOH KAR)  
m(A) H.B. HUTUMDAR (H.B. HUTUMDAR)  
m(J)