

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 727/89

~~Transfer Application No~~
xxxxxxxxxxxxxxxxxxxxxx

DATE OF DECISION: 9.8.94

Sakharam Baba Petitioner

~~Mr. Joshi for Mr. Gangal~~ Advocate for the Petitioners

Versus

Union of India Respondent


Mr. J G Sawant Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri V. Ramakrishnan, Member (A)

1. To be referred to the Reporter or not ? M
2. Whether it needs to be circulated to other Benches of the Tribunal ? M


Vice Chairman

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

O.A. NO.727/89

Sakharam Baba

..Applicant

V/s

Union of India & Ors.

..Respondents

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

Appearance:

Mr. Joshi for Mr. D V Gangal
Counsel for the applicant

Mr. J G Sawant
Counsel for the respondents

ORAL JUDGEMNT:
(Per: M.S.Deshpande, Vice Chairman)

DATED: 9.8.94

M.P. No. 487/94 is for amendment and is allowed.
No amendment ^{to written statement} is necessary in view of the decision of this Tribunal as the legal position is clear. Heard the Counsel.

2. The point raised by this application is no longer res-integra. The applicant was appointed as Assistant Carpenter by the respondents on 18.9.1943 and was governed by the State Railway Provident Fund (SRPF) rules. The pension scheme in respect of the railway employees was made compulsory in 1957. Options were given to the persons governed by SRPF scheme to switch over to the Pension Scheme. The time for exercising the option was extended up to 31.12.75 by the letter dated 3.6.75. This time was again extended by the letter dated 29th July 1979. The applicants contention is that this letter was never brought to his notice and this position now remains uncontroverted.

3. In view of the decision of this Tribunal in JOSEPH JOHN GONSALVES Vs. UNION OF INDIA & ORS. in O.A. No.



732/87 decided on 28.2.90 which squarely covers the present case we make the following order:

ORDER

i) The respondents are directed to hold that the applicant is entitled to the benefit of the pension scheme and within a period of three months from the date of receipt of a copy of this order to fix the pension payable to the applicant according to the rules in existence on the date of his retirement and also amend the pension so fixed taking into consideration the amendments made to the rules thereafter.

ii) The respondents are entitled to recover from the applicant all the amounts which would not have been due to him if he had opted for the pension scheme prior to his retirement.

iii) The respondents shall within a period of three months from the date of receipt of a copy of this order compute the arrears of pension due to the applicant limited to a period of one year before the date of filing this application, i.e., limited to arrears from 1st September 1988.

iv) No interest is to be charged when computing the amounts due in terms of clause (ii) and the arrears due in terms of clause (iii).

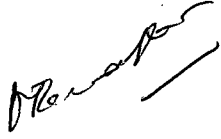
v) The amounts computed in terms of clauses (ii) and (iii) of these orders shall be set off against each other and the net balance amount due shall be computed by the respondents and intimated to the applicant within three months from the date of receipt of a copy of this order. The net payment due shall be made by the party concerned to the other party within one month thereafter.

vi) Regular monthly pension payments shall be made from no later than four months after the receipt of a copy of this order. This shall be subject to the applicant refunding the net balance due in terms of clause (v) in case the net balance is payable by him.

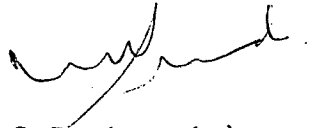
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vii) In the circumstances of the case, we direct the parties to bear their own costs.



(V. Ramakrishnan)
Member(A)



(M.S. Deshpande)
(Vice Chairman)