

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

[REDACTED] BOMBAY BENCH

O.A. No. 750/89  
Ex-AxxNox

198

DATE OF DECISION 7.10.1991

T.K. Mohite Petitioner

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

Versus

Union of India & Ors. Respondent

Mr. Subodh Joshi Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice U.C. Srivastava, Vice-Chairman

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? *M*
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*

MGIPRRND-12 CAT/86-3-12-86-15,000

*M.Y. Priolkar*  
M(A)

(B)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY

\* \* \* \* \*

Original Application No. 750/89

Tukaram Krishana Mohite,  
R/o. Parsi Wadi, Room No.5,  
Near Kopari Colony,  
Thane 400 603.

... Applicant

v/s

1. Union of India, through  
General Manager,  
Central Railway,  
Bombay V.T.

2. Chief Workshop Manager,  
Locomotive Workshop,  
Central Railway, Parel,  
Bombay 400 011.

... Respondents

CORAM : Hon'ble Vice-Chairman, Shri Justice U.C.Srivastava  
Hon'ble Member (A), Shri M.Y.Priolkar

Appearances:

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

ORAL JUDGEMENT:

Dated : 7.10.1991

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

The applicant in this case resigned from Railway service with effect from 1.2.1972 after rendering over 29 years service. He made a request vide letter dated 15.7.89 that he may be granted pensionary benefits by treating his resignation as retirement. This request was rejected by the respondents vide letter dated 21.8.1989. The grievance of the applicant is that his resignation after 29 years of service should have been treated as retirement and he should have been granted option for pension on the basis of the judgment of this Tribunal in the case of Ghansham Das Vs. Union of India and others (T.A.No.27/87) since he had retired during the period between 1969 and 1972.

2. According to the respondents, the applicant during his service had never opted for the pension scheme and accordingly his retirement benefits were settled under the Provident Fund Scheme applicable to the Railway servants ~~and~~ according to law. It was also stated that option for pension was not available at the time the applicant had retired from service.

3. The learned counsel for the applicant argued that in the case of Ghansham Das this Tribunal has given a direction that all the Railway employees who have retired during the period from 1.4.69 to 14.7.72 had the right to opt for pension scheme and the action of the Railways in giving the pension option only during a certain period but not during others was discriminatory and hence illegal <sup>W.</sup> This question whether pension scheme option ~~should be~~ <sup>could have been</sup> given only during ~~a~~ certain periods but not during others <sup>W.</sup> has now been finally settled by a five-Judges Bench of the Supreme Court in the case of Krishnakumar vs. Union of India, AIR 1990, SC 1782 in which the Supreme Court has held that there was adequate justification for giving or extending the option period within certain specified cut off dates and there was nothing discriminatory or illegal ~~W.~~ in excluding certain periods for the purpose of grant of such option to the Railway employees.

4. The learned counsel for the applicant has argued that the SLP filed against our judgement in the case of Ghansham Das was rejected by the Supreme Court and recently even a review petition filed against that order on SLP has also been rejected by the Supreme Court. The learned counsel, therefore, contended that it cannot be said that the decision in the Ghansham Das is not good

law after the Supreme Court judgement in the Krishna Kumar's case. It may be stated, however, that this review petition was rejected by the Supreme Court holding that the case of Ghansham Das was already distinguished in the judgement in Kirshna Kumar's case on the ground that the justification given for each of the option orders issued by the Railways was not brought to the notice of the Tribunal when it delivered the judgement in Ghansham Das case nor to the notice of the Supreme Court when it rejected the S.L.P. filed against that judgement. In fact, even after this review order of the Supreme Court was brought to our notice, we have decided similar cases holding that the Supreme Court judgement in Krishna Kumar's case will have the effect of over ruling our judgement in Ghansham Das case. In fact, along with Krishna Kumar's case, a number of other petitions were also decided by the Supreme Court in the common judgement in the Krishna Kumar's case, and others and one of the petitioners in the other <sup>such</sup> cases was covered under the Ghansham Das judgement since he had retired during the period 1969-1972. But even then, the Supreme Court has not thought it fit to grant any relief to that petitioner although he was squarely covered by our judgement in Ghansham Das case. In our view, therefore, a review order of the Supreme Court rejecting the petition against their order on SLP against the Tribunal's order in Ghansham Das's case cannot reverse the binding law laid down by the 5-Judges Bench of the Supreme Court in the Krishna Kumar's case. We do not, therefore, see any merit in this application which is accordingly rejected with no order as to costs.

*[Signature]*  
( M.Y. Priolkar )  
Member(A)

*[Signature]*  
( U.C. Srivastava )  
Vice-Chairman