

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 170/96 /199

Date of Decision: 11-12-1997

M P Vasudeva Menon

Petitioner/s

Mr. B Ranganathan

Advocate for the
Petitioner/s

V/s.

UDI & Ors.

Respondent/s

Mr. S.C. Dhawan

Advocate for the
Respondent/s

CORAM:

Hon'ble Shri B.S. Hegde, Member(J)

Hon'ble Shri

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?


MEMBER(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING No.6
PRESCOT ROAD, MUMBAI 400001

O.A.No. 170/96

DATED : 11TH DECEMBER, 1997

CORAM : HON. SHRI B S HEGDE, MEMBER(J)

M.P. Vasudeva Menon
C/o. M P N Menon
A/2, Green Acres Bunglow
Din Quary Road, Deonar
Mumbai 400088
(Adv. Mr.B Ranganathan for Mr.
S.R.Atre, counsel for the applicant) ..Applicant

V/s.

1. Union of India
General Manager
South Central Railway
Sanchalan Bhavan
Secunderabad 500371
2. The Chief Accts Officer
South Central Railway
Sanchalan Bhavan
Secunderabad 500371
3. The Divisional Railway Manager(P)/BG
Office of the Divisional Railway
South Central Railway
Sanchalan Bhavan
Secunderabad 500371
(By Adv. S.C. Dhawan) ..Respondents

ORDER

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[Per: B S Hegde, Member(J)]

1. Heard Mr. B Ranganathan, for Mr. S R Atre, counsel for the applicant and Mr. S C Dhawan, counsel for the respondents and perused the record.

2. The only prayer made by the applicant in this O.A. is to direct the respondents to take into consideration the applicant's services, which he had put in with the respondents with effect from 7.8.1951 to 7.5.1972 and

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grant him all his service benefits as well as the settlement dues along with interest @ 12% with effect from the date when such benefits became due and payable.

3. Respondents in their reply stated firstly that the O.A. is hopelessly barred by time and is required to be dismissed in limini; secondly this Tribunal cannot entertain this O.A. for want of jurisdiction under section 21(2) of A.T. Act as the cause of action pertains to 3 years proper to the establishment of the the Tribunal and also in view of the Hon. Supreme Court Judgment in 1995(31) ATC 198 [CENTRAL HOSPITAL Vs. SAVITA B. BODKE & ORS]. The contention of the applicant is that due to his mental illness from 1972 till 1990 he could not agitate the matter and on regaining the normal condition he made representations. It is an admitted position that he has not made any communication regarding his illness from 1972 to 1990. The respondents submitted that the records of the applicant are not available as the applicant ceased to be an employee since 1972. In view of the bifurcation of Secunderabad and Hyderabad they are unable to get the entire record of the applicant and that they were able to get only the PPF ledger wherein the applicant's name appears and he was contributing towards C.P.F.

4. During the course of hearing the learned counsel for the applicant submits that in view of the option given to

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the Government employees to switch over to the Pension Scheme from C.P.F. the applicant should have been given the opportunity to opt for pension which has not been done by the respondents. In this connection he draws my attention to the observation by the Apex Court in KRISHENA KUMAR Vs. UNION OF INDIA & ORS., 1990 SC SLJ 299 which read as under:

"Consequent upto acceptance of the recommendations of the 4th Pay Commission the revised pay scales were notified on 19.9.86 and 14.3.87, effective from 1.1.86. Accordingly another pension option was given to the Railway employees who were in service on 1.1.86 vide orders of 8.5.87. Under these orders those who not specifically opt out of pension scheme by 17.12.87 would be automatically deemed to have opted for the pension scheme."

5. However, according to me firstly the applicant is not in service as on 1.1.1986. He has not informed about his whereabouts from 1972-90 to the respondents; secondly he was in the Contributory Provident Fund Scheme and he has not opted for Pension Scheme at any point of time as the learned counsel for the applicant nor the applicant have shown any documentary proof that he has opted for the Pension Scheme other than relying on the Apex Court decision cited above.

6. In view of above I see no merit in the O.A. and the same is dismissed. No costs.


(B S Hegde)

Member(J)