

CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

ORIGINAL APPLICATION NO.: 351/96.

Dated, this Provenud, the 9th day of Aug, 1996.

CORAM : HON'BLE SHRI M. R. KOLHATKAR, MEMBER (A).

J. A. Moraes ... Applicant
(By Advocate Shri G.S. Walia)

VERSUS

Western Railway & Anr. ... Respondents.
(By Advocate Shri V.S. Masurkar)

: ORDER :

in this O.A.
There is no impugned order but the applicant seeks the relief of declaration that he is entitled to opt for pension under Railway Board's letter dated 23.7.1974 read with Railway Board's letter dated 29.12.1979. The applicant further submits that this case is fully covered by the judgement of the Tribunal in Abel De Sales, who had been allowed to opt for pension and the S.L.P. against which judgement was dismissed but the applicant did not make any representation to the department, as all such representations filed by other employees had never been replied by the department.

2. The respondents who filed a reply contend that the applicant is not entitled to any option in view of Krishna Kumar's judgement by Hon'ble Supreme Court.

3. At the stage of hearing on admission, it was conceded by both the sides that there has been a conflict of decisions of the Tribunal as to the issue raised by the O.A. and that the matter has been referred to Full Bench by this Tribunal vide its order of reference dated 28.04.1995 - O.A. No. 314/94, 116/94 and 1146/94. The Learned Counsel for the respondents however argued that even so the O.A. was not entitled to be admitted because the O.A. does not satisfy Section 20 of the Administrative Tribunals Act because the applicant never approached the department and had not exhausted the departmental remedies.

4. I considered the matter. In Section 20 of the Administrative Tribunals Act, the wording is - "the Tribunal shall not ordinarily admit an application, etc." In special circumstances, therefore, this Tribunal can admit the O.A. Since there is an issue to be decided and the issue stands referred to the Full Bench, it is only just and proper that the O.A. is admitted and should await and abide by the final decision of the Full Bench.

5. ADMIT. Let the matter be placed before Registrar for completion of pleadings on 12.09.1996 and after completion of pleadings, a date for final hearing may be fixed after the decision of the Full Bench is available. The Counsel are at liberty to mention the matter earlier.


(M. R. KOLHATKAR)
MEMBER (A).