

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.818/1999.

this the 22nd day of August 2000.

Coram: Hon'ble Shri D.S.Baweja, Member (A),

R.N.Gazdar,
Block No.2,
Behramji Building,
1, Sholapur Road,
Pune - 411 002.
(By Advocate Shri Sunil Dighe)

... Applicant.

Vs.

1. Union of India,
through the Secretary,
Ministry of Railways,
New Delhi - 110 001.
 2. The Chairman,
Railway Board,
New Delhi - 110 011.
 3. The General Manager,
Central Railway,
Mumbai C.S.T.
Mumbai - 400 001.
 4. The Divisional Railway Manager,
Central Railway,
Mumbai CST,
Mumbai - 400 001.
 5. Sr. Divisional Accounts Officer,
Central Railway,
Mumbai C.S.T.,
Mumbai - 400 001.
- (By Advocate Shri R.R.Shetty)

... Respondents.

: O R D E R :

{Per Shri D.S.Baweja, Member (A)}

The applicant was appointed as Assistant Driver in Central Railway on 7.10.1955. He superannuated from service on 31.1.1995. The applicant was unmarried till 1990 and was member of State Railway Provident Fund (SRPF). However, after marriage, the applicant contends that he gave his option to switch over to Non-Contributory Provident Fund Scheme (NCPF). At the time of retirement, when the applicant came to know that the respondents

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have not allowed his option for switching over to NCPF scheme, he challenged the matter through OA No.127/97, which was decided as per order dt. 13.1.1998 by rejecting the claim of the applicant to switching over from SRPF to NCPF scheme. However, the order provided that if the applicant has got any doubt with regard to his P.F. Account from the year 1990 to 1995, then he may approach the Senior D.A.O. in Respondents' Office to verify the records. It was also laid down that Senior D.A.O. will show to the applicant the amount paid towards the Government contribution from 1990 to 1995.

2. The applicant states that he made representation on 16.6.1998 and 3.7.1998 requesting respondents to comply with the order of the Tribunal. However, the respondents did not take any action and therefore he filed a Writ Petition in the High Court. However, the said writ petition was withdrawn with permission to approach Central Administrative Tribunal and thereafter the present OA has been filed on 10.9.1999.

3. The applicant has sought for the following reliefs:-

"(a) the Hon'ble C.A.T. be pleased to direct the Respondent to call for all the records and proceedings of SRPF and NCPF Provident Fund A/c. of the Applicant and direct the Respondents to furnish him all the copies of the SRPF/NCPF statements and Provident Fund slips including period 1990 to 1995 as per the order of Hon'ble CAT dt. 13.11.1997 to verify whether matching Government contribution was credited to Applicants SRPF A/c. or not, within a period of fifteen days from the passing of the order of Hon'ble CAT. Also direct the Respondents to show V.P.F. account separate as it is NCPF since it cannot be merged with SRPF and direct the respondents to furnish the copy of the Service Book of applicant.

(b) to grant all the consequential benefits to the applicant, including arrears/pensionary benefits with interest."

4. The counsel for respondents on 18.11.1999 submitted that the

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letter has already been addressed to the applicant offering inspection of the records. However, the applicant stated that he has not received any communication from the respondents. Keeping this in view, the applicant was directed to have the inspection of the records in the office of the Respondents on 26.11.1999. The applicant after inspection of the records filed M.P. 923/99, wherein while pointing out discrepancies regarding his Provident Fund Account, the applicant has prayed for a direction to the respondents to furnish xerox copies of P.F. Slips of the applicant from 1990 to 1995 and the original copy of the Service Book as the inspection of same was not given to the applicant and also to produce the original Register of P.F. Account, and SRPF and NCPF account of applicant from September, 1987 to 31.1.1995. This M.P. was considered on 9.3.2000 and a direction was given to the respondents to produce the copy of the P.F. Account, SRPF Account and NCPF Account of the applicant for the period from September, 1987 to January, 1995. It was also directed that the respondents will furnish copies of P.F. slips and xerox copy of the Service Register to the applicant.

5. The respondents have filed written statement thereafter. The respondents have submitted that the applicant has been given full inspection of SRPF and NCPF Accounts from the year 1987 to 1995 and copies of the SRPF Ledger Account from 1987 to 1995 has already been furnished to the applicant and copies of the same have been also enclosed with the written statement. The respondents further submit that in para 4.6 of the OA, the applicant has himself admitted that when he was SRPF optee, the contributions for SRPF were being deducted from the salary and matching contributions were also remitted to his account and in

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addition to these contribution, interest in the balance amount was also being credited on year to year basis. Therefore, the applicant cannot raise any dispute regarding contribution to SRPF prior to 1990. The applicant in the M.P. has contested that the contribution of the government to SRPF and the respondents have reacted to the same. Respondents state that the applicant was entitled for government liability of contribution of 8.33 per cent of the basic pay and the same had been allowed as per the extant rules. As regards the claim for pension, the respondents submit that this issue is already settled in the order in OA No.127/97. With these submissions the respondents submit that there is no cause of action which survives and therefore the OA is liable to be dismissed.

6. The respondents have also filed a separate written statement against the M.P. bringing out the position as brought out in the written statement of the OA. The applicant has filed reply to the written statement filed by the respondents in the M.P. contesting the submissions of the respondents.

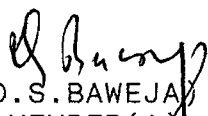
7. I have heard the arguments of Shri Sunil Dighe, the learned counsel for the applicant and Shri R.R.Shetty, the learned counsel for the respondents.

8. The applicant has filed the present OA seeking the relief in para 8 and detailed in para 2 above. As regards relief (b) is concerned, the same is barred by res-judicata as the applicant had sought the same relief in the earlier OA (viz. OA No.127/1997) viz. switching over to NCPF scheme (Pension Scheme) and in result his claim had been rejected as per order dt. 13.11.1997. Therefore, in view of this, the claim of the applicant does not survive. As regards the claim (a) is

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concerned, the applicant has only sought for the copies of SRPF/NCPF statements for the period from 1990 to 1995. As brought out earlier, the applicant has been given ample opportunity to inspect the records of SRPF and NCPF Account. The copies of the year-wise entries in SRPF ledger have also been furnished to the applicant. In addition to copy of the service sheet also has been furnished to the applicant. Thus, the relief prayed for in the OA has been already granted to the applicant. The counsel for the applicant, however, during the course of the hearing argued that number of discrepancies have been found in contribution of the government in respect of the SRPF account which he has detailed in the M.P. In addition, the applicant wanted also the inspection of the SRPF Ledger not only from 1990, onwards, but from the date of his appointment in 1955 apprehending that there may be discrepancies in his SRPF Account. It is noted that, although the applicant has brought out in M.P. certain discrepancies and also in reply to the written statement of the respondents, the applicant has not sought any amendment to the OA by way of amendment to the reliefs prayed for. The OA in the present form with the reliefs prayed for and brought out earlier does not survive as the necessary records have been since furnished to the applicant as prayed for.

9. In the result of the above, the OA does not have any merit and stands dismissed accordingly. If the applicant is aggrieved by any discrepancy in his SRPF Account based on the inspection carried out and the records made available to him and then he can agitate the matter, if he so desires, as per the law. No order as to costs.


(D.S. BAWEJA)
MEMBER(A)