

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO: 639/99

<sup>10<sup>th</sup> April</sup>  
DATE OF DECISION: / /2000

Shri Chunilal Joita Applicant.

Shri G.S.Walia  
----- Advocate for  
Applicant.

Versus

Union of India & Ors.  
----- Respondents.

Shri R.R.Shetty  
----- Advocate for  
Respondents.

CORAM:

Hon'ble Shri S.L.Jain, Member(J).

1. To be referred to the Reporter or not? *yes*
2. Whether it needs to be circulated to other Benches of the Tribunal? *No*
3. Library. *yes*

*S.L.Jain*  
(S.L.JAIN)  
MEMBER(J)

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION NO: 639/99  
DATED THE 18<sup>th</sup> DAY OF APRIL, 2000

CORAM: HON'BLE SHRI S.L.JAIN, MEMBER (J)

Chunilal Joita  
Retired Railway Employee  
Formerly working as  
Blacksmith Grade-I, under  
Inspector of Works (1)  
Western Railway  
Parel,  
Mumbai-400 012

... Applicant.

By Advocate Shri G.S.Walia

V/s.

1. Union of India, through  
General Manager,  
Western Railway,  
Head Quarters Office,  
Churchgate,  
Mumbai - 400 020.
2. Divisional Railway Manager,  
Mumbai Division,  
Western Railway,  
Mumbai Central,  
Mumbai - 400 008.

... Respondents

By Advocate Shri R.R.Shetty

(ORDER)

Per Shri S.L.Jain, Member (J)

This is an application under section 19 of the Administrative Tribunals Act for a declaration that the applicant is entitled to Ex-gratia payment under the Railway Board's letter dated 27/1/98 and a direction to the respondents to pay the same to the applicant with arrears and interest thereon @ 18% p.a. till it's payment.

2. The applicant who was governed by GPF scheme working as Black Smith Grade I in the Western Railway, under Inspector of Works (1) sought voluntary retirement on 26/8/85 after completing

*S.L.J.*

...2.

more than 35 years of service, as he was appointed on 27/6/50.

3. The applicant claims that he applied for voluntary retirement in terms of Railway Board's order dated 9/11/77 after 20 years of qualifying service, he is treated as retired for all purposes getting post-retirement complimentary passes though not getting pension, is entitled to ex-gratia payment under the Railway Board's order dated 27/1/98 which is denied to him stating that as he has voluntarily retired, not entitled to the same. Hence, he filed this OA on 12/6/99 for the above said relief.

4. The claim is resisted by the respondents and it is alleged that as the applicant did not retire on superannuation hence in view of Railway Board letter No.F(E)III/98/PN-1/Ex.Gr.5 dated 13/11/98 he is not entitled for the same.

The Railway Board's order dated 27/1/98 para 1,2,3 which deals with entitlement of Ex-gratia payment are as under:-

"1. Based on the recommendations of the Vth Central Pay Commission, the President is pleased to grant ex-gratia payment to the SRPF(C) beneficiaries who retired between the period 1st April, 1957 to 31st December, 1985 at the rate of Rs.600/- p.m. w.e.f. 1st November 1997, subject to the condition that such persons should have rendered at least 20 years of continuous service prior to their superannuation for becoming eligible to the ex-gratia payment. They will also be entitled to Dearness Relief at the rate of 5% w.e.f. 1/11/97.

2. The Ex-gratia payment is not admissible to (a) those who were dismissed/removed from service and (b) those who resigned from service.

3. Arrears of ex-gratia payment will be payable w.e.f. 1/11/97. Lifetime arrears of ex-gratia payment will also be admissible in respect of SRPF (c) beneficiaries who were alive on 1/11/97 and died subsequent to that date for the period from 1/11/97 to the date of death."

*Sign*

...3.

5. The Railway Board's letter No.F(E)/98PN1/Ex.Gr.5 dated 18/11/98 (RBE No.260/98) a clarification in respect of the above Railway Board order dated 27/1/98 was issued, relevant para-2 which is as under:-

"2. A reference has been received from one of the Railway seeking clarification as to the applicability of these instructions to cases of retirement on medical invalidation, voluntary retirement etc. It is hereby clarified the in terms of instructions contained in Board's letter dated 27/1/1998 abid exgratia payment is admissible to those who had retired on superannuation subject to fulfillment of the condition that the superannuation SRPF (C) beneficiaries should have rendered at least 20 years of continuous service prior to their superannuation. Those SRPF(C) beneficiaries who had retired from service other than on superannuation, viz. on medical invalidation, Voluntary retirement, compulsory retirement as a measure of penalty, premature retirement, retirement on permanent absorption in or under a Corporation of Company or body corporate or incorporate. etc., are not eligible for grant of ex-gratia payment."

6. In OA.809/99 Shri K.R.Jadhava V/s. Central Railway and Anr. decided on 24/12/99, the Hon'ble Chairman sitting as a Single Member has taken a view that the applicant is not entitled to ex-gratia payment since he had resigned his job and had not retired from service.

7. In OA.1121/98, Smt.Laxmi Biharilal V/s. Central Railway and another decided by me on 29th Feb,2000 after taking a note of the above referred order, I have also held that a distinction deserves to be made in respect of person retiring on superannuation and persons retiring on voluntary retirement, Compulsory retirement.

*JSB* /

...4.

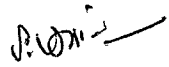
8. After the said order the Division Bench of this Tribunal while deciding OA-633/99 on 7/3/2000, Smt.Padibai Vinayak Patil V/s. Union of India and others and OA-1305/95 on 8/3/2000 Smt.Muktabai Gopal Sonawane V/s. Union of India and others after taking the note of the said orders in OA-809/99, 1121/98 distinguishing the same have taken a different view on the ground that in the said OAs distinction of resignation after 30years of service did not arise for consideration.

9. Smt.Shobha M Zende V/s. Union of India and others decided on 8/7/97 (Full Bench), OA-1384/95 decided on 14/8/97. Smt.Shobha M Zende V/s. Union of India and others, OA-8/98 Smt.Rashilaben Ramesh Chandra Panchal V/s. Union of India and others decided on 10/9/98, OA-20/90 Mrs.Evelyn Gracias V/s. The Divisional Railway Manager, Central Railway Bombay decided on 3/7/90, OA-721/92 Smt.Sarojini Waman Shinde V/s. Union of India and others decided on 20/12/93, Om Prakash Singh V/s. Union of India and others have taken a view that resignation after completing qualifying service can be treated and deserves to be treated as retirement and the persons are entitled to exgratia payment.

10. In view of the above situation matters deserves to be examined keeping in view the specific exclusion of persons who retired on medical invalidation, voluntary retirement, compulsory retirement, as a measure of penalty, premature retirement, retirement on permanent absorption in or under a Corporation or a company or body corporate or incorporate etc. when validity of the same is not under challenge. The principle enunciated in the

orders passed in OAs referred in para 9 of this order that resignation can be treated as retirement after qualifying service can be extended to the present case <sup>but</sup> not to entitlement of exgratia payment. As the applicant voluntarily retired his retirement cannot be treated as retirement on superannuation.

11. In the result OA has not merit, it deserves to be dismissed and is dismissed accordingly with no orders as to costs.

  
(S.L. JAIN)  
MEMBER(J)