

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 583/2000

the 3rd day of OCTOBER 2002

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

Balbirshing B.Bhadoria
Ex-Bearer, Under executiv
control of DRM(C)/
Central Railway, Mumbai CST.

...Applicant.

By Advocate Shri K.B. Talreja.

V/s

1. Union of India through
the General Manager,
Central Railway, Mumbai CST

2. The Divisional Railway
Manager, Central Railway,
Mumbai CST.

...Respondets.

By Advocate Shri R.R.Shetty.

O R D E R

{Per S.L.Jain, Member(J)}

This is an application under Section 19 of the Administrative Tribunals Act 1985 for direction to the respondents to workout the retirement benefits by calculating his qualifying service 26 years and 21 days and pay the same with 18% interest per annum with effect from the date of superannuation till actual payment with cost.

2. The applicant calims that his date of birth ;is 11.7.1950 and his date of appointment in Railways is 7.5.1973. He was directed to the D.M.O./Byculla for medical examination in class C/1 category for regular absorption as per his seniority position

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wherein the applicant is at s.No. 2. The D.M.O./Byculla failed him in B/1 medical category but found him fit in C II medical category. He was not taken on duty with effect from 1.9.1978 to 24.9.1978. The D.M.O./Byculla asked the applicant to bring another bearer letter to make him fit for C II medical category which is the requisite medical category for Bearers. The applicant continued to press for redirecting him for medical category in class II but all the time he was being delayed and in the year 1991 he was sent for medical examination for C II category.

3. The applicant was regularised in service with effect from 16.1.1991 and superannuated with effect from 31.7.2000. The applicant through his counsel sent a letter to General Manager, Central Railway, Mumbai dated 25.7.2000 to get the necessary requisite forms for settlement dues be got filled.

4. The claim of the applicant is resisted by the respondents by denying the facts mentioned in para 2 of this order. It is alleged and rightly argued that the Tribunal has no jurisdiction to examine the grievances of the applicant which pertains to the period 1978. It is further alleged and rightly argued that as the OA is filed on 1.8.2000, grievance one year prior to the filing of the OA can be examined and none else. This being such a OA wherein the grievances commencing with effect from 1978 are alleged with further grievance arising after superannuation. As such it is necessary to separate the grievances which has arisen

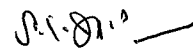
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only after superannuation which can only be the subject of dispute between the parties and prior grievance are either cannot be examined for want of jurisdiction or barred by time. Keeping the said position of law in mind only the facts necessary for consideration of the OA are those which are mentioned in para 3 of this order.

5. The respondents have rightly stated that the applicant has served for 9 years 6 months and 15 days, based on the facts that the applicant was regularised with effect from 16.1.1991 and superannuated on 31.7.2000. The applicant claims the benefit of Rule 45(1)(B) of Railway Services Pension Rules 1973. Such a claim was neither represented by the applicant in his representation dated 25.7.2000, even which is not decided by respondents and within a week i.e. on 1.8.2000, the applicant rushed to the Tribunal. As the grievance of the applicant is on account of inaction of the respondents, the respondents can be directed to consider the grievance of the applicant for retirement benefits in view of Rule 45(1)(B) of Railway Services Pension Rules, 1993.

6. In the result OA is disposed of with the direction to the respondents to consider the grievance of the applicant keeping ⁱⁿ ^{the} view ^{of} Rule 45(1)(B) of Railway Services Pension Rules, 1993 within a period of four months from the date of receipt of copy of the order. No order as to costs.


(S.L.Jain)
Member(J)