

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO.183 OF 2001

Dated this the 28th day of September, 2001

Coram: Hon'ble Mr. B.N. Bahadur - Member (A) -

Luther Sumant Borde,  
aged 72 years,  
R/o Bethel Colony, Kedgaon Tal,  
Daund, District Pune.  
(By Advocate Shri V.N. Tayade)

.... Applicant

VERSUS

1. Union of India,  
Ministry of Railways, (Railway Board),  
Railway Bhawan, New Delhi.

2. The General Manager,  
Western Railway,  
Churchgate, Mumbai.

3. The Financial Advisor &  
Chief Accounts Officer,  
Western Railway, Churchgate,  
Mumbai.

(By Advocate Shri V.S. Masurkar)

*C.M. Jha* *B.N. Bahadur*  
.... Respondents

ORAL ORDER

The applicant in this case has come up to the Tribunal seeking relief for a direction to the respondents to provide him pensionary benefits w.e.f. 1.5.1973. I have seen the papers in the case and have heard the learned counsel on both sides viz. Ms. Bhosle for the applicant and Shri C.M. Jha for the respondents.

2. The facts of the case, as they emerge from perusal of all papers and arguments made before me are in a short compass. The Applicant states that he joined the Western Railway, at Churchgate, as a Clerk on 8.1.1953. After serving the Department till 1973 i.e. after completing 20 years of service, he had tendered resignation voluntarily. He avers that having put in more than 20 years of service, and having voluntarily tendered resignation, he should be declared as entitled for pension, as per the decision of the Hon'ble Supreme Court in the case of Union of India Vs. Syad Sarwar Ali & others, (1998) 9 SCC 426.

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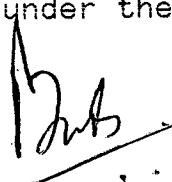
*B.N.B.*

3. Learned counsel for Applicant reiterated these points and stated that the benefit of ratio decided in Sarwar Ali's case (supra) should be provided to the applicant and relief provided on that basis. The grounds taken in Para 5.3 of OA were also relied upon by the learned counsel, for the Applicant during her arguments.

4. The respondents in the case, through their written statement and arguments made by their learned counsel, Shri Jha, first took the objection on the point of limitation, delay and laches. It was argued that the case was hopelessly time barred and needed to be dismissed on this count alone. On merits, it was argued that the resignation had become final and the fact could not be undone. A point was made that the Scheme providing benefits for voluntary retirement, came into force only in November, 1991 and no such Scheme was operative or in sight in 1973, when the applicant put in his application for resignation.

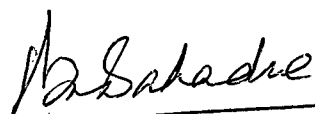
5. This is a case where the facts are clear and undisputed. It is not in dispute that the Applicant submitted his resignation and did so voluntarily. The question of asking for voluntary retirement could not have even come up because the Scheme for Voluntary Retirement was not in operation at that time. Benefits on certain grounds like these can be claimed (depending on facts of case, that too,) only if a Scheme is available for government servants at the relevant time. It is not a right under any law. When the Scheme providing benefits of voluntary retirement did not even exist in 1973, there is no case for providing benefit under the Scheme at this stage. Even for the sake of arguments,

....3/-



if the issue regarding the applicant's case being one of resignation is liberally construed, as being one of voluntary retirement, it does not help the applicant, since no Scheme was available in 1973. It does not need further detailed arguments to conclude that the applicant has no case, whatsoever. The case fails on merits. It is also seen that the case is hit by delay and laches.

6. The OA is therefore dismissed. No order as to costs.



(B.N. Bahadur)  
Member (A)

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