

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 232 of 2001

Dated this Wednesday the 13<sup>th</sup> day of February 2002.

Ramchandra Kisan Akhade Applicant.

(By Adv. Shri Rajeev Mankar) Advocate for the Applicant.

VERSUS

The Secy. Govt. of India, Dept. of Posts, Dak Bhawan, New Delhi Respondents.

(By Adv. Smt. H. P. Shah) Advocate for the Respondents.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

- (i) To be referred to the Reporter or not ?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library.

Yes

Yes

Yes

MB

(B. N. BAHADUR)  
MEMBER (A)

mb\*

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Dated this the 13<sup>th</sup> day of February, 2002

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

O.A.232 OF 2001

Ramchandra Kisan Akhade,  
R/o Satav Plot, Hadapsar,  
Pune 411 029.

(By Advocate Shri Rajeev Matkar)

- Applicant

Versus

The Secretary,  
Government of India,  
Department of Posts,  
Dak Bhawan,  
New Delhi & others.

(By Advocate Smt.H.P.Shah)

- Respondents

O R D E R

✓ By Hon'ble Mr.B.N.Bahadur, Member (A) -

The applicant in this case comes up to the Tribunal challenging the order dated 14.6.2000 (Annexure-A-7) through which he has been refused pensionary benefits, which he claims he is entitled to on the basis of service rendered by him.

2. The facts of the case, as brought out by the applicant, are that after being appointed as Sorter in Rail Mail Service 'B' Division, Pune and working with Respondents for 11 years, 8 months and 10 days, he resigned from service w.e.f. 12.2.1981.

▼ The resignation was accepted and he was relieved on the same date. The applicant states that only as late in 1999 had he acquired knowledge through an item in a local newspaper that as per the latest judgment of the Hon'ble Supreme Court and High Court, employees who had served more than ten years could not be denied pension on the ground that he had resigned from service.



....2/-

3. The respondents have filed a written reply. While accepting that the applicant had put in service longer than ten years, their main line of defence is based on the decision of the Hon'ble Supreme Court in the matter of Union of India Vs. Rakesh Kumar (2001 SOL 232). It is also contended in the written statement that since the applicant had tendered an unconditional resignation, he was not eligible to have it treated as a notice for retirement. Detailed parawise replies attempting to meet the averments in the OA are provided further in the written statement.

4. I have seen all papers in the case and have heard the learned counsel on both sides. The learned counsel Shri Rajeev Matkar argued the case for the applicant, first making the point that as regards the objection taken on the rule position that resignation entails forfeiture of past service, the ratio of the Hon'ble Supreme Court's decision in the famous case of J.K.Cotton Mills, (AIR 1990 SC 1808) would help applicant.. On the objection on the ground of limitation, delay and laches, learned counsel stated that this was a continuous cause of action and hence not hit by law of limitation.

5. The learned counsel for the applicant sought to take support from Rule 49 (2) (b) of the C.C.S.(Pension) Rules, 1972 and stated that once it is decided that resignation will be treated as request for voluntary retirement, the applicant would be entitled to pension pro-rata on the basis of service rendered.

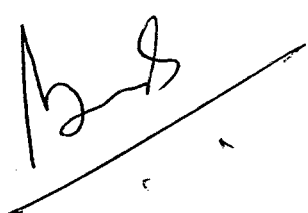


....3/-

The counsel for applicant also tried to meet the ratio of Rakesh Kumar's judgment (supra) stating that this was a case applicable only to BSF employees and that the ratio was arrived at with reference to BSF rules. Neither Rule 49 (2)(b) (supra) nor the judgment in J.K.Cotton Mills (supra) was overruled in the Rakesh Kumar judgment.

6. The learned counsel for the respondents Smt.H.P.Shah depended upon on the decision in Rakesh Kumar's case (supra) and also sought to reiterate the points made in the written statement filed by the respondents. She took me over both these in detail.

7. Since the matter was strenuously urged to be covered up by judgment of the Hon'ble Supreme Court, I have carefully gone into the aforesaid judgment viz. Union of India Vs. Rakesh Kumar (supra). After very careful perusal of the judgment, I am left in no doubt regarding the total applicability of the judgment of the present applicant. The argument made by learned counsel for the applicant to the effect that the judgment covers only the BSF Rules, incorrect, since the entire corresponding provisions of the Central Civil Services (Pension) Rules, 1972 are discussed in detail. May be certain additional requirements and stipulations are there for BSF personnel, but the discussions show that the Hon'ble Supreme Court had considered the aspect relating to entitlement to pension after ten years of service and less than twenty years of service of cases of Central employees where the applicant has retired voluntarily after putting in less than 20 years of service. Rule 49 has been discussed and the



...4/-

discussion provides us with valuable guidance which I would respectfully follow in the present case.

8. Since the matter has been discussed at such length in the decision of Rakesh Kumar (supra), I do not find it necessary to repeat the arguments. Suffice it to say that even if the officer is taken to have asked for retirement and not for resignation, the fact that his is not retirement on superannation and that his service was less than 20 years would certainly go against the applicant vis-a-vis the relief sought.

✓ 9. In view of the above discussion, the OA fails and is hereby dismissed with no order as to costs.

*B.N. Bahadur*

(B.N. Bahadur)  
Member (A)

13/2/02

mb

dt 13/2/02

order/Judgement despatched  
to Applicant/Respondent(s)  
on 20/2/02

*W*