

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
@ @ @ @ @ @ @ @ @ @ @ @

Commercial Complex (BDA),
Indiranagar,
Bangalore - 560 038

Dated : 29-9-87

APPLICATION NO. 521/87(F)

W.P. NO.

Applicant

T. N. Kanakasabapathy

VS. G.M., S. Railway & anr.

To

1. T. N. Kanakasabapathy,
9/6 Royal Printers,
894, Anunachala Street,
Ittegud, Mysore - 570010

2. Sh. A. K. Ramakrishnan,
Advocate,
117, II Stage,
Gokulam, Mysore - 570002.

3. The General Manager,
Southern Railway
Park Town, Madras - 600003.

4. Sh. KV Lakshmanachar,
Railway Advocate,
High Court Buildings,
Bangalore - 560001.

5. The works manager,
Railway workshop,
Ashokapuram, Mysore - 570008

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~

~~INTERIM ORDER~~ passed by this Tribunal in the above said

application on 10-9-1987.

Recd Com

Mr. Advocate 30/9/87
Encl : as above

5. Shri K. V. Lakshmanachar,
Advocate,

No. 4, 5th Block,
Briand Square Police Bldg.
Mysore Road,
Bangalore - 2.

By Venkatesh
Deputy Registrar
~~DEPARTMENT OF POLICE~~
(JUDICIAL)

RECEIVED

5/9/87
Diary No. 1204/CP/87
Issued Date: 30/9/87 A

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE

DATED THIS THE TENTH SEPTEMBER, 1987.

Present: Hon'ble Justice Shri K.S. Puttaswamy
Hon'ble Shri L.H.A. Rego

Vice Chairman
Member (A)

APPLICATION NO. 521/87

T.N. Kanakasabapathy
(Retired HS 1/MW Shops/Myss)
C/o Royal Printers,
No. 894, Arunachala Street,
Ittigegud,
MYSORE - 570 010

Applicant

(Shri A.K. Ramakrishnan.... Advocate)

1. The General Manager
Southern Railway
Park Town
MADRAS - 600 003.

2. The Works Manager,
Railway Work Shop,
Ashokapuram,
MYSORE - 570 008.

Respondents

(Shri K.V. Laxmanachar.... Advocate)


This application has come up for hearing
before this Tribunal to-day, Hon'ble Justice Shri
K.S. Puttaswamy, Vice-Chairman, made the following

O R D E R

This is an application made by the applicant
U/s 19 of the A.T Act, 1985.

2. On 19.8.1955, the applicant joined service
as a Khalasi in the Indian Railways. On attaining
superannuation, the applicant has retired from
service on 30.6.1984.

3. When the applicant joined service and
till about 1964 the employees in the Indian
Railways were governed by the compulsory

Contributory Provident Fund Scheme (CPF). Sometime in 1964 or so, payment of pension to the employees was introduced in the Railways also: while introducing pension, those who were then working were given option to opt for pension or CPF as before, which facility was renewed on more than one occasion.

4. The applicant claims that in 1978, he had opted for pension and therefore, on his retirement on 30.6.1984, he was entitled for payment of pension. But the Railway Administration had refused to extend the same on the ground that the applicant who had earlier opted for CPF had not opted for pension. Hence this application for appropriate reliefs.

5. Shri A.K. Ramakrishnan, learned counsel for the applicant, contends that the applicant had exercised option to be governed by pension in 1978 and he was therefore entitled for payment of pension and other terminal benefits under the Rules.

6. Shri K.V. Laxmanachar, learned counsel for the respondents contends that the applicant had not exercised option for pension at any time and was not entitled for pension.

7. When pension was introduced in 1964 or so in the Railways the employees then working were allowed to exercise their option either for pension or CPF. On 24.6.1964 the applicant had exercised his option to continue to be governed by CPF and the same is pasted



in the original service register (SR) of the applicant. On 24.5.1966, the applicant had exercised a similar option and that also has been pasted in the SR.

8. But the option stated to have been exercised by the applicant in 1978 is not forthcoming and had not been pasted in the SR. We have no doubt that if the applicant had exercised his option in 1978, the same without any doubt as would have been pasted in the past. The principles of presumptions are the facts and circumstances and the records maintained by the Railway Administration militate against his present claim before us from this it follows that the applicant had not exercised his option in 1978 or thereafter for pension and he cannot therefore claim pension. On the foregoing it also follows the applicant was only entitled for payment of provident fund under the CPF and that claim is fairly accepted by the respondents.

9. In the light of our above discussion, we hold that this application, which is devoid of merit, is liable to be dismissed. We, therefore, dismiss this application. But in the circumstances of the case, we direct the

-TRUE COPY- parties to bear their own costs.

*By order of
DEPUTY CHAIRMAN
ADMINISTRATIVE
ADVISORY
COMMISSION

sb.

2/1/87
(K.S. PUTTASWAMY)
VICE-CHAIRMAN

12/01/87

2/1/87
(L.H.A. REGO) ✓ 10.2.87
MEMBER (A)