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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY
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Original Application No.136/90

Sakharam Sawalaram Deshmane
R/o Dadu Patil Wadi,
Devde Chawl, Naupada Road,
Thane

... Applicant

V/s

Union of India & Ors.

... Respondents

CORAM : Hon'ble Vice-Chairman, Shri U.C.Srivastava
Hon'ble Member (A), Shri P.S.Chaudhuri

Appearances:

Mr. D.V.Gangal, Advocate
for the applicant and
Mr. J.G.Sawant, Advocate

ORAL JUDGEMENT:

Dated : 13.8.1991

(Per. U.C.Srivastava, Vice-Chairman)

The applicant who was a railway employee has by means of this application prayed for the grant of pensionary benefits with effect from 1.9.1976. His grievance is that when he retired he was not told to opt for pension. The applicant states that he retired voluntarily on 31.8.1976 and the State Railway Provident Fund (for short, SRPF) were applicable to him. He was not told to opt for pension and he was not apprised of the benefits available under the Pension Scheme and therefore could not opt for pension. He requested for pensionary benefits before retirement but was allowed to retire under SRPF.

2. The respondents have opposed the prayer of the applicant and have pleaded that at the time when the applicant retired he was governed by SRPF and as such he received all his retirement benefits under the said rules. The pension scheme had been introduced on 1.4.57

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and since then, except for a short period, repeated options were given to the railway employees, including the applicant, who had joined service before 1.4.1957 to come over to the Pension Scheme. The applicant, however, chose voluntarily to continue in SRPF and thus declined to opt for the Pension Scheme though option for the same was available to him.

3. The applicant has placed reliance on the case of Ghansham Das decided by this Tribunal wherein the Tribunal held that the denial of pension option to those employees who retired during the period from 1.4.69 to 14.7.72 was arbitrary, discriminatory and unreasonable. The applicant retired in 1976 and so he does not fall within the period from 1.4.1969 to 14.7.1972. Ghansham Das's case has been distinguished by the five Judge decision of the Hon'ble Supreme Court in the case of Krishanakumar v. Union of India & Ors. 1990 (14) ATC 846, where the Supreme Court has rejected such plea which has been raised by the applicant who did not opt for the Pension Scheme and after accepting all the benefits remained satisfied and tried to rake up the matter.

4. The applicant has accordingly no right to claim pensionary benefits and the application is devoid of merit. We have dismissed a number of such petitions and we do not find any distinguishing feature in this case which is also accordingly dismissed. There will be no order as to costs.



(P.S. Chaudhuri)
Member(A)



(U.C. Srivastava)
Vice-Chairman