

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

8

## NEW BOMBAY BENCH

O.A. No. 82/91  
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DATE OF DECISION 8.9.1992Shri P.S.Konda

Petitioner

Shri G.S.Walia

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Shri J.G.Sawant

Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. Justice S.K.Dhaon, Vice Chairman

The Hon'ble Mr. M.Y.Priolkar, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, BOMBAY

OA.NO. 82/91

Shri P.S.Konda

... Applicant

V/S.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice S.K.Dhaon  
Hon'ble Member (A) Shri M.Y.Priolkar

Appearance

Shri G.S.Walia  
Advocate  
for the Applicant

Shri J.G.Sawant  
Advocate  
for the Respondents

ORAL JUDGEMENT

Dated: 8.9.1992

(PER: S.K.Dhaon, Vice Chairman)

The grievance is that the applicant, an ex-railway employee, is being denied the benefit of the pension scheme.

2. A reply has been filed on behalf of the respondents.

Counsel for the parties have been heard.

3. The applicant was compulsorily retired from service on 17.8.1976. A pension scheme had been introduced w.e.f. 23.7.1974. Thereafter, circulars were issued from time to time extending the period during which an option could be exercised by a retired employee to either accept pension or provident fund. The last circular was issued some time before 31.12.1978. By this circular the period was last extended for exercising the option till 31.12.1978.

4. The case set up by the applicant is that after his retirement he did not acquire any knowledge of these circulars and particularly the circular by which the time had been extended for the last time till 31.12.1978. In the reply filed ✓ it is not stated as to what manner the applicant was informed

of the last circular. On the basis of material record, it has to be accepted that the applicant did not acquire any knowledge of the last circular.

5. A some-what similar controversy came up before this Tribunal in the case of V.D.Vaidya vs. Union of India & anr. decided on 26.4.1990. This Tribunal gave the benefit of the circular and of the pensionary scheme to a Railway employee. It also gives certain directions to which we shall refer a little later. We have been informed at the Bar that the aforesaid decision of this Tribunal has been up-held ~~in~~ by the Supreme Court.

6. The respondents shall give the benefit of the pensionary scheme to the applicant. They shall do the needful <sup>with</sup> in a period of four months from today in accordance with the rules. They shall commence paying the monthly pension to the applicant within a period of four months from today. As directed by this Tribunal in the case of V.D.Vaidya, the applicant will be entitled to receive pension from a period anterior to one year from the date of presentation of this application. We may note that the application was presented in this Tribunal on 22.2.1991. The applicant shall be liable to refund to the Railways the entire amount received by him towards provident fund. He shall do so within a period of four months. However, no interest shall be payable by the applicant to the Railways. The amount received towards pension shall be set off towards pension payable to the applicant. If it is found that the applicant is still liable to refund certain amounts to the Railways, he shall be called upon to do so by paying up in instalments which will be fixed by the Railways. We also make it clear that the Railways shall not be liable to pay any interest to the applicant on account of delayed payment of pension. With these directions this application is disposed of finally but without any order as to costs.

(M.Y.PRIOLKAR)  
Member (A)

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(S.K.DHAON)  
Vice Chairman