

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 756/91
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DATE OF DECISION 9.4.1992

Shri N.K.Kaikini PetitionerShri G.S.Walia Advocate for the Petitioner(s)

Versus

Union of India & Urs. RespondentShri A.L.Kasturey Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice U.C.Srivastava, Vice Chairman

The Hon'ble Ms. Usha Savara, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
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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Hon V.C

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 756/91

Shri N.K.Kaikini
V/S.

... Applicant

Union of India & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice U.C.Srivastava
Hon'ble Member (A) Ms.Usha Savara

Appearance

Shri G.S.Walia
Advocate
for the Applicant

Shri A.L.Kasturey
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 9.4.1992

(PER: U.C.Srivastava, Vice Chairman)

As the pleadings are completed and the parties also agree, the case is disposed of finally. Admit. The applicant after serving in the Western Railway for about 35½ years retired from his post of Inspector of Stores Accounts on 3.10.1973. While he was in service the Railways introduced Railway Pension Scheme in the year 1957 asking the serving employees to opt for Pension Scheme, if they so desired. The applicant, however, during the period of his service elected to opt to continue under contributory Provident Fund Scheme. The original Pension Rules of 1957 came to be liberalised in a substantial manner gradually and more so with the acceptance of 3rd Pay Commission Report. Subsequent to liberalisation of Pension Rules, the Railway Board gave fresh chances to the original optees to Contributory Provident Fund Scheme to opt for the Pension Scheme. The Railway Board vide its letter dated 29.12.1979 extended grant of option to all the serving and retired Railway employees and the cases were to be regulated accordingly in the terms of provisions made in para 2 of the Railway Board's letter

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dated 23.7.1974. According to this letter the applicant should have been informed by the respondents about the eligibility and availability of option for pension in as much as by the time the said letter dated 29.12.79 had been issued, the applicant states, that he had already retired from service. The applicant submits that the contents of the two letters dated 29.12.1979 and 23.7.1974 were never brought to his notice. In case it had been brought to his notice he would have opted for Pension Scheme. The respondents stated that the contents of Railway Board's letters dated 23.7.74 and 29.12.79 were given wide publicity. These letters were published in the Railway Gazette also. Copies of these letters were sent to each section coming under the control of Western Railway to be circulated among staff. Copies were also furnished to the recognised Unions of the Railway Employees for the display on the notice board and as such it is submitted that instructions in the above said letters were fully complied with. It has been stated that the applicant referred the case of V.D.Vaidya vs. Union of India & Ors. in which the Respondents have filed SLP before Supreme Court and stay ~~has~~ been granted by the Supreme Court. The larger issue regarding the grant of Pension Option to Provident Fund Scheme retirees, irrespective of their date of retirement is decided by the Hon'ble Supreme Court and the Supreme Court dismissed the SLP Krishna Kumar vs. Union of India reported in JT 1990(3)SC-173. In OA.842/89 V.D.Vaidya vs. Union of India decided by this Tribunal on 26.4.1990 we have held that no notice was given to the applicant of the pension scheme, and he was entitled to the benefit of the Pension Scheme. We give the following directions by following the earlier decisions. We direct the respondents to fix the pension of the applicant within a period of three months from the date of receipt of a copy of this judgement, according to the rules in existence on the date of his retirement, with consequential

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revisions as applicable from time to time. Regular monthly pension payment shall be made to the applicant within four months from the date of the receipt of the order. However, the arrears of pension due to the applicant will be limited to a period of one year before the filing of this application. The respondents are at liberty to recover from the applicant all amounts which would not have been due to him if he had opted for the pension scheme prior to his retirement. The amount so arrived at would be set off against the arrears of pension payable to the applicant. In case the amount to be recovered from the applicant is in excess of the arrears of pension to which the applicant is entitled, the excess amount so arrived at may be recovered in monthly instalments from the pension of the applicant. With the above directions the case is disposed of finally with no order as to costs.


(MS. USHA SAVARA)
MEMBER (A)


(U.C. SRIVASTAVA)
VICE CHAIRMAN

mrj.