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CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
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Original Application No: 661/91

Transfer Application No:

DATE OF DECISION: 28.9.1994

K.G.Pandit. Petitioner

Shri D.V.Gangal. Advocate for the Petitioners

Versus  
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Union of India & Ors. Respondent

Shri J.G.Sawant. Advocate for the Respondent(s)

CORAM :  
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The Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,

The Hon'ble Shri K.D.Saha, Member(A).

1. To be referred to the Reporter or not? *no*
2. Whether it needs to be circulated to other Benches of the Tribunal? *no*

  
(M.S. DESHPANDE)  
VICE-CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, BOMBAY.

(10)

Original Application No.661/91.

K.G.Pandit.

.... Applicant.

V/s.

Union of India & Ors.

.... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,  
Hon'ble Shri K.D.Saha, Member(A).

Appearances:-

Applicant by Shri D.V.Gangal.  
Respondents by Shri J.G.Sawant.

Oral Judgment:-

{Per Shri M.S.Deshpande, Vice-Chairman} Dt. 28.9.1994

The applicant retired from Railway Service on 31.5.1977 and the benefit of switching over to the pension scheme was made available to the persons who had retired between 1.1.1973 to 31.12.1978. The last communication by the Railway Board extending the benefit of pension scheme was by letter dt. 29.12.1979.

The applicant's contention is that no personal notice was served on the applicant and this position is not in dispute, because the Respondents are not able to show anything due to non-availability of record. It therefore, follows that ~~applicant's contention that~~ the notice of the latest communication has not been served on him by which he could have become aware of his rights. The present case will be covered by the ratio of the decision in Joseph John Gonsalves (OA No.732/87 decided on 28.2.1990) and calls for an identical order.



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2. In the result, we pass the following order:

O R D E R

1. The respondents are directed to hold that the applicant is entitled to the benefit of the pension scheme and within a period of three months from the date of receipt of a copy of this order to fix the pension payable to the applicant according to the rules in existence on the date of his retirement and also amend the pension so fixed taking into consideration the amendments made to the rules thereafter.
2. The respondents are entitled to recover from the applicant all the amounts which would not have been due to him if he had opted for the pension scheme prior to his retirement.
3. The respondents shall within a period of three months from the date of receipt of a copy of this order compute the arrears of pension due to the applicant limited to a period of one year before the date of this application i.e. limited to arrears from 7.10.1990.
4. No interest is to be charged when computing the amounts due in terms of clause (ii) and the arrears due in terms of clause (iii).
5. The amounts computed in terms of clauses (ii) and (iii) of these orders shall be set off against each other and the net balance amount due shall be computed by the respondents and intimated to the applicant within three months from the date of receipt of a copy of this order. The net payment due shall be made by the party concerned to the other party within one month thereafter.
6. Regular monthly pension payments shall be made from not later than four months after the receipt of a copy of this order. This

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(12)

shall be subject to the applicant refunding the net balance due in terms of clause (5) in case the net balance is payable by him.

7. In the circumstances of the case, we direct the parties to bear their own costs.



(K.D.SAHA)  
MEMBER (A)



(M.S.DESHPANDE)  
VICE-CHAIRMAN

B.