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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH.

Original Application No. 925/92

~~XXXXXXXXXXXXXXXXXXXX~~

Date of decision 23.6.93

Shri Uttamlal Pranjivan Pancha Petitioner

Shri D.B.Dave

Advocate for the Petitioner

Versus

Union of India and others Respondent

Shri Subodh Joshi


Advocate for the Respondent(s)

Coram :

The Hon'ble Shri A.B.GORTHI, Member (A)

The Hon'ble Shri

1. Whether the 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 ?


(A.B.GORTHI)
MEMBER (A)

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 925/92

Shri Uttamlal Pranjivan Panchal

... Applicant.

V/s.

Union of India through
The General Manager,
Central Railway,
Bombay VT.

Chief Workshop Manager,
Central Railway,
Matunga, Bombay.

... Respondents.

CORAM: Hon'ble Shri A.B.GORTHI, Member (A)

Appearance:

Shri D.B. Dave, counsel
for the applicant.

Shri Subodh Joshi, counsel
for the respondents.

ORAL JUDGEMENT.

Dated: 23.6.93

(Per Shri A.B.Gorthi, Member (A))

The applicant ~~who~~ joined the Central Railway on 18.11.44 as Carpenter and continued to serve satisfactorily with the respondents till 27.11.73 when his resignation was accepted. At the time when the resignation was accepted he had completed about 29 years of service. He, ~~was~~ during his service, contributed to the ~~contributory~~ provident fund and was not an optee for pension. Consequent to the implementation of the 3rd pay commission's recommendation the employees contributing to the Provident Fund were given option for pension. This option, as ^{can} ~~has been~~ seen from the Railway Board's letter dated 29.12.79 was available to such employees in the period from 1.1.73 to 31.12.78. The applicant's contention is that he had opted for pension vide his letter dated 5.1.78 (a copy of which is annexure D to the application). There is proof that the said option was sent by registered post to the General Manager , Central Railway, Bombay V.T.

The respondents' contention is that the applicant ^{did} do not possess the qualifying service for pension and that in any case he did not exercise his option for coming under pension scheme.

As regards the qualifying service of the applicant, admittedly he had rendered about 29 years of service. From the record it can be concluded that the applicant submitted his option on 5.1.78. The learned counsel for the applicant has drawn my attention to a number of cases of the similar nature decided by this Tribunal in the past, viz, OA 434/89, 756/91, 842/89 and 732/87.

In view of the above, the application may be disposed of with the following directions:-

- a) The respondents may treat the applicant as ^{an} opted for the pension scheme as requested by him vide letter dated 5.1.78.
- b) Keeping in view the number of years of service he had rendered, his pension entitlement, if any should be calculated and determined.
- (c) The amount of pension as determined above will be paid regularly hereafter i.e. with effect from 1.11.93.
- (d) The arrears of pension accrued on this account should be ^{limited to} ~~paid till~~ one year before filing of this application i.e. from 27.8.92 (1991) &
- (e) The respondents would be at liberty to recover from the applicant all such amounts which would not have become due to him had he opted for the pension scheme prior to his retirement.

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: 3 :

Application is allowed with the above directions.
There shall be no order as to costs.


(A.B.GORTHI)
MEMBER (A)

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(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMAY.

Review Petition No.68 of 1993

in

O.A.No.925 of 1992.

Date of Order : 26-9-93.

Uttamlal Panchal .. Applicant

Vs.

Union of India & Ors. .. Respondents

Counsel for the Applicant :: Shri D.B.Dave

Counsel for the Respondents :: Shri Subodh Joshi

CORAM:

Hon'ble Shri A.B.Gorthi : Member(A)


In this review petition the main contention that has been raised is that the Applicant, who admittedly joined Railway service on 28.11.44, resigned from service w.e.f. 27.11.73. As his service came to be terminated due to his resignation, the 29 years of service that he had rendered would not qualify him for pension. It is now stated that as the Applicant ^L ~~has~~ resigned before completing 30 years of service he would not be eligible for pension.

2. Annexed to the O.A. was a Railway Board's letter No.PC/III/(73)/PN/3 dt. 23.7.74 which is to the effect that the Liberalised Railway Pension Rules for the Railway Employees, 1964 as amended from time to time should be allowed to all Railway servants:

- (i) who have retained the S.R.P.F.(Contributory) benefits and
- (ii) were in service on 1.1.73 and those who quitted /retired on or after 1.1.73.

The word 'quitted' would signify leaving the service by voluntary act of the employee such as by seeking premature retirement or by tendering resignation. As the Applicant, at the time of resigning from service, was a Provident Fund optee, the significant difference between seeking premature retirement and resigning was perhaps lost sight of. It would therefore be in the interest of justice if the case of the applicant for pension is processed treating him as having retired prematurely. The judgement dt. 23.6.93 in the O.A. may be read as modified by this order.

3. The review petition is allowed to the above extent.
No order as to costs.


A.B.Gorthi
Member (A).

Dated: 06 Sept., 1993.