

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, BOMBAY.

Original Application No.1253/93.

B.K.Pillai.

.... Applicant.

V/s.

Union of India & Ors.

.... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Shri V.Ramakrishnan, Member(A).

Appearances:-

Applicant by Shri D.V.Gangal.

Respondents by Shri N.K.Srinivasan.

Oral Judgment:-

Per Shri M.S.Deshpande, Vice-Chairman] Dt. 1.8.1994

The only question which arises for consideration is whether the benefit of the letter dt. 27.12.1978 (Annexure A-2) was available to the present applicant who retired from Railway service on 31.1.1977. G The matter is no longer res ^{view of the order in} integra ~~as~~ in the OA No.732/87 Joseph John Gonsalves V/s. UOI & Ors decided on 28.2.1990. The matter came to be considered in para 10 of the Judgment in which it has been observed that the question of exercising a fresh option where a retired employee would arise only if he knew and he could not have known it unless he was intimated. It was therefore held that the applicant therein who had retired in 1977 was entitled to exercise option which was extended by letter dt. 29.12.1979. The situation in the present case is identical and we pass the following orders:

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.

- ii) 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 pension scheme prior to his retirement.
- iii) 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 filing this application, i.e. limited to arrears from 1.11.1986.
- iv) 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).
- v) 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.
- vi) Regular monthly pension payments shall be made from not later than four months after the receipt of a copy of this order. This shall be subject to the applicant refunding the net balance due in terms of clause (v) in case the net balance is payable by him.
- vii) In the circumstances of the case, we direct the parties to bear their own costs.

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V. Ramakrishnan

(V. RAMAKRISHNAN)
MEMBER(A)

M. S. Deshpande
(M. S. DESHPANDE)
VICE-CHAIRMAN