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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY 1

OA NOS. 52/93 AND OA NO. 933/92

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| 1. P.B. Pendse | ..Applicant
in OA No.52/93 |
| 2. Manorama Parshuram Ambedkar | ..Applicant
in OA No.933/92 |

V/s

Union of India & Ors.	Respondents
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Coram : Hon. Justice M S Deshpande, Vice Chairman

Appearance:

Mr. D V Gangal
Counsel for the applicant

Mr. J G Sawant
Counsel for the respondents

ORAL JUDGMENT:

DATED: 10.2.1994

(Per: M S Deshpande, Vice Chairman)

In OA No. 933/92 the applicant's husband who was employed with the respondents in 1934 retired on 30.6.1969. He died on 20.12.1979. It is not necessary to go into all the facts which have been averred in the application because they are similar to those which are raised in OA No. 915/89 GOVIND DAJI V. DIVISIONAL RAILWAY MANAGER, CENTRAL RAILWAY, BOMBAY, decided on 9.2.1993. The contention of the learned counsel for the applicant is that the proposition laid down in the Govind Daji's case in which specifically mention was made of the judgement of Five Judges Bench of the Supreme Court in KRISHNA KUMAR'S CASE, AIR 1990 SC 1782 had not been overruled and, therefore, the present case

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which would be on par with Ghansham Das's case would entitle the applicant for relief. Reference was made to the Railway Board's circular dated 2.1.1992 where a fresh date i.e., 31.12.1972 has been prescribed^{as} the date before which the option should have been exercised.

2. All these contentions came to be raised in OA No.915/89 and the Division Bench rejected the proposition that this Tribunal's judgement dated 11.11.1987 in Ghansham Das's case was still good law after the five judge Bench decision of the Hon. Supreme Court and that the applicants therein were entitled to the benefits of the Railway Board's circular dated 2.1.1992 without insisting upon the specific conditions stipulated therein that he should have exercised the option for pensions either during service or thereafter upto 31.12.1972. This view of the Divisions Bench which has considered both the cases is binding. There is, therefore, no merit in the application. It is accordingly dismissed.

In OA No. 52/93 in which the question substantially which we have decided earlier has been raised. It is additionally contended that the applicant therein had retired on 8.1.1972 and that he had made a representation giving the option as required by the Railway Board letter dated 2.1.1992 on 8.4.1972. The fact that such an option was given was denied by the respondents. There is no material on record except the statement in the application to show that such an option had been sent on 8.4.1972. What is true is that if a copy of this letter dated 8.4.72 is purported to have been sent on 28.10.1972 to the respondents. It cannot be said that sending a representation on 8.4.72 was a mere coincidence considering that the option had to be exercised prior to 31.12.1972. The applicant's contention in this respect cannot, therefore, be accepted and it must be taken that no option has been exercised as per letter dated 2.1.1992 and this application also, therefore, has to be dismissed and is accordingly dismissed. No order as to costs.



(M S Deshpande)
Vice Chairman