

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 137/93

Transfer Application No:

DATE OF DECISION 21-2-94

Albert Fernandes and 4 others Petitioner  
Bombay

Shri G.S. Walia

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri J.G. Sawant

Advocate for the Respondent(s)

CORAM:

The Hon'ble ~~Shri~~ Smt. Lakshmi Swaminathan, Member(J)

The Hon'ble Shri

1. Whether 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 ?

No

*Lakshmi Swaminathan*  
(Lakshmi Swaminathan)  
Member(J)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A. No. 137/93

Shri Albert Fernandez &  
4 Others, Bombay.

....

Applicant

V/s.

Union of India & Others

....

Respondents

CORAM : Hon'ble Smt. Lakshmi Swaminathan, Member (J)

APPEARANCE

Shri G. S. Walia, counsel  
for the applicant.

Shri J. G. Sawant, counsel  
for the respondents.

ORAL JUDGMENT

Dated : 21.2.1994

(Per : Hon'ble Smt. Lakshmi Swaminathan, Member (J)).

The applicants were Railway servants who retired from service during the period between 8.7.1969 to 23.6.1972. They desire that their option for pension scheme may be accepted, although they were originally governed by the State Railway Provident Fund (S.R.P.F.) Rules. At the time of their retirement between 1.4.1969 to 14.7.1992 there was no option for pension available. The applicants in this case have exercised their option for pension scheme in 1992, soon after the judgement of this Tribunal in the case of Ghansham Das Vs. Union of India (T.R. 27/87) dated 11.11.1987, on which the SLP as well as Review Petition filed by the Union of India had been rejected by the Supreme Court vide their orders dated 5.9.1988 and 6.5.1991, respectively.

2. The learned counsel for the applicants has also referred to the subsequent decision of the Supreme Court in Krishna Kumar Vs. Union of India (AIR 1990 Supreme Court, Page 1782) and the decision of this Tribunal in Govind Daji

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Vs. Union of India (OA 915/89 dated 9.2.1993, Bombay, Division Bench.) According to the learned counsel, the Supreme Court in the Review Order in Ghansham Das case had itself distinguished the decision of the Supreme Court, in Krishna Kumar's case. Further, according to him the decision in Ghansham Das case before the Tribunal is very relevant, where the Tribunal refers to the fact that they do not understand as to why the members of the family of the deceased railway employees who had died during that period were given the benefit of the Family Pension Scheme *by allowing them to exercise their option in favour of the same, while denying the benefits of pension to the railway servants who had retired during the same period*

3. The learned counsel for the respondents however, submitted that these matters have been dealt with and determined by the various judgments of this Tribunal (Division Bench) on several occasions. In particular he drew my attention to paragraphs 3-4 of the judgment of this Tribunal in Govind Daji Case (supra). According to the learned counsel, the matter has been concluded by the decision of the Supreme Court in Krishna Kumar case which had upheld the validity of the option provisions offered by the Railways as not being discriminatory and which was followed by the Division Bench of this Tribunal.

4. In this case the applicants have exercised their options for pension scheme in 1992 although they had retired from service between 1.4.1969 to 14.7.1972, *when no option for pension scheme was available.* It may also be mentioned that in the case of Ghansham Das, the applicants had exercised their option for pension, although the scheme was not available to them at that time, prior to their retirement. Therefore, having carefully considered the facts in this case and the aforesaid judgments, *there appears to be no merit in this application and it is accordingly rejected.* No order as to costs.

*Lakshmi Swaminathan*  
(Lakshmi Swaminathan)  
Member (J)