

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 689/93

~~Transfer Application No~~

DATE OF DECISION: 17.2.94

Shri D.A. Benjamin Petitioner

Shri G.S. Walia Advocate for the Petitioners

Versus

Union of India and others Respondent

Shri N.K. Srinivasan. Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Shri

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.

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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

(6)

Original Application No. 689/93

Shri D.A. Benjamin

... Applicant.

V/s.

Union of India through
General Manager,
Western Railway
Churchgate,
Bombay.

Divisional Railway Manager,
Western Railway,
Bombay Division,
Bombay Central,
Bombay.

... Respondents.

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

Appearance:

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

Shri N.K. Srinivasan, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 17.2.94

¶ Per Shri M.S. Deshpande, Vice Chairman ¶

By this application, the applicant claims to be entitled to opt for pension with all benefits of arrears on the basis of pension scheme introduced by Railway Board by its letter dated 23.7.74 (Exhibit C). The applicant retired from Railway Service on 1.11.76 and under the liberalised pension scheme which was introduced in 1.1.73 had opted for retention of Contributory Provident Fund. However by the Pension Scheme of Railway Board's letter dated 23.7.74, the option was allowed to all Railway servants who have retained the S.R.P.F. (Contributory) benefits and were in service on 1st January 1973 and those who had quit or retired on or after 1st January 1973 and this option should be exercised within a period of six months from the date of issue of the order.



(A)

The time for coming over to pension was extended from time to time and finally by order dated 29.12.79 (Exhibit D) it was decided that extension of time upto 31.12.78 may be deemed to be applicable in the case of those who have been in service on 1.1.73 retired /quitted service/ died in service during the period from 1.1.73 to 31.12.78. The options exercised in the above cases upto 31.12.78 may, therefore, be treated as valid and the cases regulated accordingly. The applicant's contention is that he had not been given notice of this scheme and he became aware of the position later , after the decision in several other cases including the case of V.D. Vaidya V/s. Union of India and anr. 1991 15 ATC 392 decided on 26.4.90 and since the respondent had not allowed the option exercised, thereafter he had approached this Tribunal for the aforesaid relief. The view taken in the V.D. Vaidya's case is followed by this Tribunal in the case of P.S. Konda V/s. Union of India and ors. in OA 82/91 decided on 8.9.92, S.H. Desai V/s. Union of India and others in OA 626/92 decided on 2.7.93 and Ramesh Motilal Pandit V/s. Union of India and ors. in OA 12/90 decided on 25.6.92. It was pointed out that it was necessary to give personal notice in each of these cases and it was obligatory that the contents of the letter must be brought to the notice of all concerned employees including those who were on leave or on deputation or on foreign service, and that employee will be entitled to the benefits of the circular if it had not brought to the notice of those employees. Shri Walia also states that the S.L.P. filed against the decision of Vaidya's case was rejected.

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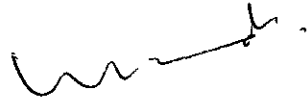
2. No reply has been filed on behalf of the respondents. Shri Srinivasan, counsel for the respondents was heard and stated that he was not in a position to trace out the record pertaining to the applicant. Respondents requested for time. Adjournment was refused.

3. It is apparent that in the absence of the statement on the part of the respondent that the contents of the aforesaid letter was brought to the notice of the applicant, the respondents would not have any defence. Shri Walia, counsel for the applicant states that he will be satisfied if a similar order as passed in the case of V.D. Vaidya is given by ^{me} ~~us~~.

4. In the result, I hold that the applicant is entitled to the benefit of pension scheme. The respondents are directed to fix the pension of the applicant within one month from the date of receipt of this order, according to the rules in existence and subsequently revised as applicable from time to time. Regular monthly pension shall be ^{paid} ~~made~~ to the applicant within four months from the date of receipt of the order. However the arrears of pension due to the applicant will be limited to a period of one year before filing of the present application i.e. 14.7.92. The respondents are at liberty to recover from the applicant all amounts which would not have been due to him if he had opted for the pension scheme prior to his retirement. The amount so arrived at would be set-off against the arrears of pension payable to the applicant from the aforesaid date. In case

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the amount to be recovered from the applicant is in excess of the arrears of pension to which the applicant is entitled, the excess amount so arrived at may be recovered in monthly instalments of Rs. 250/- from the pension of the applicant as consented by the applicant who is present in the court. No order as to costs.



(M.S. Deshpande)
Vice Chairman

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