

(49)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD.

OA.No.871/92.

Date of Judgment: 24-8-1995

Between:-

Jacob George

...

Applicant.

And

1. Union of India reptd. by General Manager,  
South Central Railways, Rail Nilayam,  
Secunderabad.
2. Deputy Chief Mechanical Engineer,  
(Personnel) Branch, Carriage Repair  
Shop, South Central Railways, Tirupathi-517 501.
3. Workshop Personnel Officer, Carriage  
Repair Shop, South Central Railways,  
Tirupathi.

...

Respondents.

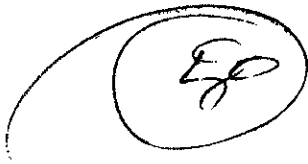
Counsel for the Applicant: Mr.G.Ramachandra Rao,

Counsel for the Respondents: Mr.J.R.Gopal Rao,  
SC for Railways.

CORAM:

HON'BLE MR.JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

HON'BLE SHRI R.RANGARAJAN, MEMBER ADMINISTRATIVE.



O.A.NO.871/92.

JUDGMENT

(AS PER HON'ble SHRI JUSTICE V.NEELADRI RAO)

The applicant joined Army on 8.11.1956 and he was discharged on 17.9.1963. Thereafter, the applicant was selected as Highly Skilled Artisan and appointed in 1965. On his option he was absorbed in Carriage Repair Shop (CRS), Tirupathi and he retired as Grade-II Painter from CRS, Tirupathi on 31.3.1990.

2. Army released personnel who are reemployed in Railways have right to get their service in the Army added to the service in the Railways for determining qualifying service for pension, if they exercise such option within three months from the date of appointment and refund service gratuity including Death-cum-Retirement Gratuity if any, from the Military, vide Para 2314 R-II.

3. The plea of the applicant is that as he was not informed by the appointing authority about the said provision, he had no opportunity to exercise that option. The applicant submitted representation dated 5.2.1990 (A3) requesting for adding his service for the qualifying service for pension and when the same was turned down by the order dated 4.5.1992 (vide Annexure 15), this OA is filed praying for direction to the respondents to fix his pension and other retirement benefits by duly counting the military service rendered by him prior to joining Railways.

contd....

4. The contention for the respondents is that as the applicant had not chosen to exercise option even by the extended period of six months referred to as per the circular No.P(R)500/VIIIm dated 12,3,1980, the applicant is not entitled to the same.

5. But it was noticed by the Ministry of Transport, Department of Railways that the military pensioners reemployed in the Railways were not informed in writing about the necessity to exercise option as referred to and as there appear<sup>ed</sup> to be number of such instances, the power to relax Rule 2314 R-II was delegated to the General Manager vide proceedings No.F/E/III/82/PN-1/2, dated 9.4.1986. Para 2(v)(a) and (b) of the letter dated 9.4.1986 states that each case of relaxation may be recommended in consultation with the Associate Finance concerned on the Railway for specific approval of the General Manager, and the <sup>employees</sup> ~~officers~~ allowed to exercise option in relaxation of Rule 2314 R-II may be asked to refund the amount of pension/gratuity in one lumpsum as contained in the said rule along with interest as advised by the Accounts Office. But the rate of interest referred to therein was prescribed at 6% vide R.B.E.NO.118/88 in letter No.F/E/III/88/PN-1/15, dated 6.6.1988.

6. It may be noted that the records had to be destroyed after 10 years as per Rule 129 of Railway General Code. Hence it is not possible at this distant ~~of~~ time as to whether in fact the applicant was not informed in writing at the time of his appointment about the necessity to exercise the option, as asserted for the applicant. As the burden is upon Railways to establish it, and as the record, for the period is not available, the General

Manager has to proceed on the assumption that the applicant was not informed after his appointment in 1965 about the necessity to exercise the option under Rule 2314 R-II. Hence the OA is disposed of as under:-

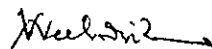
The General Manager, South Central Railway (R-1) has to consider the case of the applicant in accordance with Para 2(v) of the Ministry letter dated 9.4.1986 herein before referred to. He has to dispose of the same expeditiously and preferably by the end of December 1995.

7. The OA is ordered accordingly. No costs //



(R. RANGARAJAN)

MEMBER (ADMN.)



(V. NEELADRI RAO)

VICE CHAIRMAN

Dated: 24th August, 1995.

Open court dictation.

  
Dy. Registrar (Judl)

Copy to:-

1. <sup>vsn</sup> General Manager, South Central Railways,  
Union of India, Rail Nilayam, Secunderabad.
2. Deputy Chief Mechanical Engineer, (Personnel)  
Branch, Carriage Repair Shop, South Central  
Railways, Tirupathi-517 501.
3. Workshop Personnel Officer, Carriage  
Repair Shop, South Central Railways,  
Tirupathi.
4. One copy to Mr. G. Ramachandra Rao, Advocate, CAT, Hyd.
5. One copy to Mr. J. R. Gopal, SC for Railways, CAT, Hyd.
6. One ~~extra~~ copy to Library, CAT, Hyd.
7. One spare copy.

kku.