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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA. 512/93

date of decision : 15-9-93

Between

S.G. Padmanabha Rao

: Applicant

and

1. Union of India rep. by
The General Manager
South Central Railway
Rail Nilayam
Secunderabad

2. Chief Personnel Officer
South Central Railway
Rail Nilayam
Secunderabad

3. Financial Adviser & Chief
Accounts Officer
South Central Railway
Rail Nilayam
Secunderabad

: Respondents

Counsel for the applicant

: G.V. Subba Rao
Advocate

Counsel for the respondents

: Francis D. Paul,
SC for Railways

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

HON. MR. P.T. THIRUVENGADAM, MEMBER (ADMINISTRATION)

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri G.V. Subba Rao, learned counsel for the
applicant and Sri Francis D Paul, learned counsel for the
respondents.

2. The applicant joined service in Railways in the year 1956. The pension scheme was introduced in 1957 for the Railway employees and those who were in service in Railways by the date of introduction of pension scheme, were required to exercise their option to come within pension scheme. The case of the applicant is that he opted this pension scheme by letter dated 3.3.1958 and the Divisional Superintendent, Secunderabad, by letter dated 27.12.1958 informed the Accounts Officer that the applicant (Sl.No.9 in the said letter) alongwith othersreferred therein opted to come to the Pension Scheme. The further case of the applicant is that by letter dated 11.11.1960, the office of the Divisional Superintendent required the applicant to fill up the nomination form in respect of DCRG, Gratuity, and family pension.

3. But after IV Pay Commission Recommendations in regard to pay scales were accepted by the Government, the Railway employees were informed by Establishment Serial Circular 91/87 dated 3.6.1987 that those who are still governed by the SRPF as on 1.1.1986 should be deemed to have automatically gone over to the pension scheme unless they opt out to continue in the SRPF scheme. The applicant submitted application dated 25.9.1987 to the effect that he would continue under SRPF Scheme, and it was also stated that he was submitting the said application in pursuance of the Serial Circular 91/87.

4. The applicant retired on 30.9.1992 on attaining the age of superannuation. Then he was paid the provident fund amount which included contributory provident fund. This OA was filed praying for direction to the respondents to

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pay him pension and to provide all the benefits under the pension scheme.

5. The case of the respondents is that as per the original optional form of the applicant which was given in 1958 he opted for SRPF rules and the same was noted in the slip which was pasted to the Service Register of the applicant. Hence, it is stated that CPF was being credited to the PF account of the applicant and it was continued till the date of his retirement, as even in 87, the applicant stated that he would continue in the SRPF Rules.

6. The applicant produced a copy of the letter dated 27.12.1958 from the Divisional Superintendent, Secunderabad, to the Accounts Section wherein the name of the applicant was also found in regard to the list of the employees who opted for the pension rules. The applicant is also relying upon the LPCs given to him at the time of his transfers wherein it was noted that he opted for the pension scheme. The applicant also produced a list that was published in 1992 in regard to the applicant that he opted for pension scheme. The applicant also produced the yearly PF slips given to him from 1988 to contend that there is no reference with regard to the accumulation of matching contribution under the Head 'Bonus'.

7. The learned counsel for the respondents submitted that letter dated 27/30-12-1958 alongwith the original optional forms ~~had been~~ forwarded to the Accounts office at Secunderabad is not now available. It is further stated for the respondents that by mistake it was noted in the list of the employees due for retirement in 1992, that the applicant opted for pension rules.

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8. It is manifest from the Establishment Circular 91/87 dated 3.6.1987 that only those who were still governed by the SRPF Scheme as on 1.1.1986 were required to submit their options if they want to continue under the CPF Scheme. But if the contention for the applicant that he opted for the pension scheme even in 1958 can be accepted even though the applicant had given an option in 1987 to the effect that he would continue under SRPF, no regard should be given to the latter, and he should be held to be continued under the pension scheme. The option of the applicant which was given in 1987 cannot be held as estoppel.

9. In view of the various documents produced for the applicant and as the original letter on the basis of which the relevant column in regard to the option was ticked in the slip that was affixed to the Service Registrar of the applicant is not available, and as the question of clerical error cannot be ruled out, for it is even stated for the respondents that in the list of the 1992 retirees, it was wrongly noted that the applicant opted for pension, the case of the applicant that he opted in 1958 for pension scheme can be believed. In this case we referred to the submission for the respondents about the alleged clerical error in regard to the option for pensionary scheme with regard to the applicant was referred to only to emphasise that the possibility of clerical error cannot be ruled out and not for accepting the submission for their respondents that there was a clerical error when it was noted in that list that the applicant opted for pension scheme.

10. Hence, we hold that the applicant opted for pension scheme even in 1958 and as such his case had to be regulated under that scheme.

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To

1. The General Manager, Union of India,
S.C.Railway, Railnilayam, Secunderabad.
2. The Chief Personnel Officer, S.C.Rly,
Railnilayam, Secunderabad.
3. The Financial Adviser & Chief Accounts Officer,
S.C.Railway.Railnilayam, Secunderabad.
4. One copy to Mr.G.v.Subba Rao, Advocate, CAT.Hyd.
5. One copy to Mr.Francis D.Paul, SC for Rlys. CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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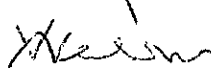
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11. The applicant already received the contributory provident fund amount accrued from year to year with interest thereon. He is not entitled to the same for his case has to be regulated under pension scheme. So the applicant is to be regulated under pension scheme. So the applicant is directed to deposit that CPF amount with interest thereon which was received by him, by 15.10.1993 and the applicant should also deposit interest thereon at 12% p.a. from the date on which he received it till the date on which he deposits the same. The applicant had to approach R-3 to require the latter to inform him about the amount to be deposited by him as per this order. It is needless to say that when the applicant approached R-3, with a copy of this order, the latter had to give him that information either on the day the applicant approaches or within one ^{week} ~~week~~ from the date on which the applicant approaches him.

12. The applicant had to submit pension forms to R-2 within one week from the date of this order and the applicant's provisional pension had to be finalised by 15th October, 93 and the pension due till the end of 30th September, 1993 had to be paid within one week from the date of deposit CPF amount with interest by the applicant. The balance of the pension had to be paid with interest from 15.10.1993. The applicant is free to apply for commutation of pension in accordance with law.

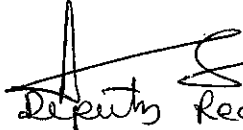
13. The OA is ordered accordingly. No costs.

P. J. 
(P.T.THIRUVENGADAM)
Member(Admn.)


(V.NEELADRI RAO)
Vice-Chairman

Dated: Sept. 15, 1993.
Dictated in the Open Court.

sk/ad


Deputy Registrar

5/10/93

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M (A)

Dated: 15-9-1993

ORDER/JUDGMENT:

M.A./R.A./C.A.No.

in

O.A.No. 512/93

T.A.No.

(W.P.)

Admitted and Interim directions
issued

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered.

No order as to costs.

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