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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.902 of-1996

DATE OF ORDER: 8th August, 1996

BETWEEN:

CH.JOHNSON

.. Applicant

and

1. The General Manager,
South Central Railway,
Secunderabad 500371,

2. The Divisional Railway Manager,
S.C.Railway, Divisional Office,
Vijayawada 520 001.

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI J.M.NAIDU

COUNSEL FOR THE RESPONDENTS: SHRI CV MALLA REDDY, Addl.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

JUDGEMENT

(AS PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Shri P.D.Raju for Shri J.M.Naidu, learned counsel for the applicant and Shri C.V.Malla Reddy, learned standing counsel for the respondents.

2. The applicant retired from service as Head Train Examiner on 30.6.81. It is stated that he submitted option form to come over to the pensionable service on 7.7.64. It is also stated that by proceedings dated 21.5.81, R-2 had directed the applicant to submit pension papers to the respondents. The Proceedings

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No.8/P.500/J dated 31.5.81 is enclosed as Annexure-IV wherein it is stated that the applicant is governed by the pension rules and he is due to retire from service from 30.6.81 and hence a set of pension papers had been sent along with those proceedings for execution and submission.

3. The main contention of the applicant is that he had opted to come over to pension scheme way back in 1964. He relies on the Supreme Court judgement in SLP No.8461/86 (Krishna Kumar v. Union of India) to state that he should be treated as a pensionable employee. He was informed by the impugned letter No.P.Mech/177/C&W/DOP/II dated 15.2.96 (Annexure-I) that he cannot be paid pension as he was governed by SRPF Scheme and there is no evidence to come to the conclusion that he opted for the pension scheme.


4. Aggrieved by the above, he filed this OA for setting aside the letter dated 15.2.96 (Annexure-I) holding it as arbitrary, illegal and for consequential direction to release the pension including arrears of pension with interest forthwith.

5. The applicant has not enclosed any document to prove that he had opted for pension scheme while in service. Annexure-V only shows that he received the option form for pension scheme. But it does not indicate that he had submitted option form to come over to pension



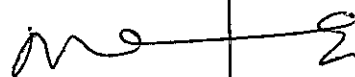
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scheme. Hence this Annexure is of no assistance to the applicant. The applicant himself by his letter dated 21.10.1981 (This letter has been taken on record) accepted that he has not opted for pension scheme on or before 28.2.81 when the option to submit to come over to pension scheme had expired. He also admits that he is not aware of the same and it is a mistake in not ~~accepting~~ ^{opting} to come over to pension scheme. Having accepted the fact that he has not opted for pension scheme, he cannot now claim pension as if he opted for pension scheme. The respondents vide Annexure-IV letter had sent the pension papers to him for filling up and resubmission of the same. But by the letter dated 30.11.82, the Divisional Personnel Officer, Vijayawada Division had advised the Headquarters that though pension forms were sent inadvertently to the applicant herein, there is no documentary evidence that he has opted for pension scheme. Hence it has to be held that Annexure-IV letter has no validity to claim pension without opting for the same. As the applicant himself has admitted by his letter dated 21.10.81 that he had not opted for pension scheme, the question of payment of pension now does not arise. The judgment of the Apex Court in SLP NO.8461/86 on which he relies to come over to pension scheme applies only to those employees who opted to switch over to the pension scheme and since the applicant herein had not opted to come over to the pension scheme on his own admission, this ~~stand~~ ^{allegation} is also of no assistance to him.



6. In view of the foregoing, the OA lacks merit and liable to be dismissed.

7. In the result, the OA is dismissed at the admission stage itself as having no merits. No costs.



(R. RANGARAJAN)
MEMBER (ADMN.)

DATED: 8th August, 1996
Open court dictation.

vsn

Handwritten notes:
13/8/96
Dy. Registrar (13) 1996

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: 5 :

OA.902/96.

Copy to:-

1. The General Manager, South Central Railway, Secunderabad.
2. The Divisional Railway Manager, S.C.Railway, Divisional Office, Vijayawada-001.
3. One copy to Sri. J.M.Naidu, advocate, CAT, Hyd.
4. One copy to Sri. C.V.Malla Reddy, Addl. CGSC, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

Rsm/-

Clk
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MA-902/46
CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI. R. RANGARAJAN: M(A)

DATED: 8/8/46

ORDER/JUDGEMENT

O.A. NO./R.A./C.P. NO.

O.A. NO.

in
902/46

~~ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOTTED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
ORDERED/REJECTED
NO ORDER AS TO COSTS.~~

YLKR

II COURT

No spare copy

