

J A I P U R.

O.A. No. 502/93

Date of decision: 6.5.94

BEHARI LAL

: Applicant.

VERSUS

UNION OF INDIA & ORS

: Respondents.

Mr. N.H. Joshi

: Counsel for the applicant.

Mr. M. Rafiq

: Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman


PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE-CHAIRMAN:

The applicant was appointed on 19.3.1939 as Clerk. He submits that he submitted the option for pension scheme and its benefits on 16.6.71 and thereafter, he submitted number of representations, A-2, A-3, A-4 etc. The respondents have admitted this position that the applicant submitted the option in 1971 when he was working in Jaipur Division. However, subsequently, he was transferred to Kota Division, and thereafter to Ajmer Division. The respondents have submitted in para 4 of the reply that the option, as claimed by the applicant, had been given when the applicant was working as P.<sup>W</sup>.I., Kasganj. It was also submitted that the fact of option of the pension by the applicant has not been confirmed either by the Divisional Railway Manager, Jaipur or the D.R.M., Kota where the applicant was working prior to his transfer to Ajmer, and for this reason his case for pension has not been considered by the authorities concerned. The respondents may pass any order according to the rules but they cannot overlook the option which was given six years prior to his retirement only on the ground that he had given the option when he was in employment in Jaipur Division and subsequent reminders issued by him to the authorities cannot be considered as option. In fact, it was necessary for them to decide about the correctness of the option given in 1971. It will not be out of place here to mention that vide Annexure A-2, the matter was again

6

submitted before his retirement and the applicant protested vide letter dated 31.1.76. Pension is a right. Of course, a person cannot get the double benefits. In the facts and the circumstances, the respondents are directed to consider the option which is said to have been given in 1971 as correct option and to decide the matter afresh within a period of three months whether the applicant is entitled for pension and other pensionary benefits and, if so, the P.P.O. should be issued and all pensionary benefits should be given to him. However, in that case, the respondents can put a condition that the amount paid to him under the PF scheme should be refunded. The amount can be adjusted also against the amount which becomes payable on account of pension.

2. The O.A. is disposed of accordingly, with no order as to costs.

  
(D.L. MEHTA)  
Vice-Chairman