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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A. No. 277/94

Dt. of order: 11.1.1995

Ganga Bux Sharma

: Applicant

Vs.

Union of India & Anr.

: Respondents

Mr. S. S. Rathore

: Counsel for applicant

Mr. S. S. Hasan

: Counsel for respondents

CORAM:

Hon'ble Mr. O. P. Sharma, Member(Adm.)

PER HON'BLE MR. O. P. SHARMA, MEMBER(ADM.).

In this application under Sec. 19 of the Administrative Tribunals Act, 1985, Shri Ganga Bux Sharma has prayed that the respondents may be directed to provide the benefit of the pension scheme from the date of retirement of the applicant and the amount paid to the applicant under the SRPF category may be allowed to be surrendered.

2. The facts of the case as stated by the applicant are that he joined the Railways on 9.5.1930 and retired on super-annuation on 30.6.1970. At the time of his retirement there was no provision for pensionary benefits. However, earlier in 1969 the Railway authorities had called for options for pension. The applicant, however, submitted his option for pension after retirement and made repeated requests for pensionary benefits through letters and personal contacts with the Railway authorities. When the applicant's pension case was not finalised even after 18 years of retirement, he made a representation dated 7.12.1989 to the Minister for Railways. In response to the above representation, the Divisional Superintendent, Jaipur Division, vide his letter dated 1.3.1990 informed the applicant that there is no provision for payment of pension to those who had opted for SRPF (Annex.A2). The applicant made a further request in this regard vide letter dated 17.9.93 and he received a reply that the applicant should furnish proof of having given option for the pension scheme. The applicant again submitted his option dated 28.3.94 (Annex.A5). According to the applicant, the authorities have not cared to deal with the representations made by

him from time to time properly. The pensionary benefits are admissible in view of the judgment of the New Bombay Bench of the Tribunal in O.A. No. 27/87 delivered on 11.11.87 in Ganshyam Das and A.D'Souza Vs. Union of India & Ors. In this judgment, the Tribunal had held that those who retired during the period from 1.4.'69 to 14.7.'72 and who have given their option in view of pension scheme either at the time when they were in service or after the retirement, and who now desire to opt for pension scheme are entitled to pensionary benefits. Therefore, the applicant is entitled to the benefits of pension.

3. The respondents in their reply have taken a preliminary objection to the effect that the applicant retired from Railway service on 30.6.'70 and for the first time as per his version he made a representation to the Railway Minister on 7.12.'89 for grant of pensionary benefits. Thus, the application is hopelessly time barred and the applicant is not entitled to any relief. The respondents have denied that they have received any option letter dated 28.3.1994, as stated by the applicant. Also, the applicant had not given any option for pensionary benefits at the time of his retirement, as per the rules existing at that time.

4. During the arguments, the learned counsel for the applicant stated that an SLP filed against the order of the New Bombay Bench of the Tribunal in the case of Ganshyam Das & A.D'Souza Vs. Union of India has been dismissed by the Hon'ble Supreme Court and therefore, this judgment became final. The applicant is entitled to pensionary benefits in terms of the judgment of the New Bombay Bench of the Tribunal. The learned counsel for the respondents reiterated that since a representation seeking pensionary benefits had been filed for the first time in 1989, after a period of 18 years after retirement, the application is time barred and therefore, the applicant is not entitled to any relief.

5. The counsel for the applicant and the respondents have been heard and records have been perused. In its judgment in the case of J.A.Sams Vs. Union of India & Anr., (1991) 27 AIC 804,

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the New Bombay Bench of the Tribunal has considered the entire matter relating to grant of options for pensionary benefits by the Railway Authorities and has also considered the earlier judgment in the case of Ganshyam Das & A.D'Suze Vs. Union of India, delivered by it. In this judgment, the Tribunal has observed that the Hon'ble Supreme Court in the case of Krishen Kumar Vs. Union of India & Ors. 1991 SCC (L&S) 113 has up-held the action of the Railway Board in giving specified dates in relation to different options for pension. Therefore, according to the Bombay Bench the point regarding limitation becomes relevant. It has further been specifically held in this judgment in the case of J.A.Sams that limitation applies to pension cases as well.

6. As regards the judgment in the case of Ganshyam Das & A.D'Suze Vs. Union of India, it seen that Ganshyam Das had given his option in about 3 years from the date of his retirement whereas A.D'Suze had given his option during his service period. In so far as the present case is concerned, the applicant has not produced any evidence to show that he submitted any option from the date of his retirement in 1970 till 1988. It was for the first time in 1989 ^{that} he made a representation seeking to switch over to the pension scheme. In view of the judgment of the New Bombay Bench of the Tribunal in the case of J.A.Sams cited above, it can not be said that the question of limitation is irrelevant, in so far as the option to switch over to pension scheme is concerned. The applicant moved to the Railway Authorities after 19 years of his retirement and on the respondents' denial to grant the benefits of pension, he has been moved to this Tribunal. The cause of action in this case arose some 24 years back. The Tribunal cannot entertain an application of this nature at such ^a belated stage. In the circumstances, the application is dismissed as time barred. There shall be no order as to costs.

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 (O.P.Sharma)
 Member (Adm.).