

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Order: 06.9.95.

FA No.3/95 (OA No.494/93)

with MA No.61/95 in FA No.3/95 (OA No.494/93)

Union of India and others v. A.I. Solomon

CORAM:

HON'BLE MR. GOPAL PRISHIA, VICE CHAIRMAN

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

For the Petitioners ...Mr. M. Rafiq.

For the Non-Petitioner Mr. P.V. Calla

O R D E R

PEP HON'BLE MR. GOPAL PRISHIA, VICE CHAIRMAN

This is a Review Application u/r 17 of the Central Administrative Tribunal (Procedure) Rules, 1987, seeking a review of the decision rendered by this bench of the Tribunal in OA 494/93 on 4.1.94.

2. We have heard Mr.M. Rafiq, counsel for the petitioners, and Mr. P.V. Calla, Advocate, appearing on behalf of the legal representatives of Shri A.I. Solomon.


3. The Review Petition is based mainly on the averment that the deceased A.I. Solomon had in fact not opted for pension on 1.11.72. It is also stated that the document in the OA at Annexure A-2 is fake and such a letter was never received by the present petitioners in their office and in such circumstances there was no question of considering the request of the deceased, Shri A.I. Solomon, for grant of pension pursuant to his alleged option. It is also stated that the deceased employee had been working under the control of DPM Patlam but his option, Annexure A-2 in the OA, was addressed to DPM, Western Railway, Ajmer, which indicates that Annexure A-2 in the OA was created afterwards and it was never despatched in the year 1972. Since the option was addressed to a wrong authority, it cannot be treated as an option for pension in the eyes of law. It is further contended by the petitioners that in fact there was no post of Divisional Railway Manager and the post then existing was that of Divisional Superintendent. The learned counsel for the petitioners has urged that the Tribunal in not considering these facts, now urged in this petition, has fallen into an error which amounts to a patent error warranting interference by way of review. It is pertinent to note that the averments of the deceased applicant in the OA were not countered by the respondents by way of filing a reply to the OA.

Officer The decision of the Tribunal was based on a judgement of the New Bombay Bench of

the Tribunal in TA No.27/87 (Ghanshyam Dass & Anr. v. Chief Personnel Officer (Mechanical) & Ors.), rendered on 11.11.87, the relevant portion of which may be extracted below :-

"The Central Administrative Tribunal, New Bombay Bench, in the decision cited supra had directed the respondents "to implement the directions given in clauses (i) to (iv) of this order in respect of all the railway employees who were similarly placed like the applicants i.e. those who retired during the period from 1.4.69 to 14.7.72 and who had indicated their option in favour of pension scheme now desire to opt for the pension scheme."

The case of the deceased railway servant Shri A.I. Solomon being fully covered by the said judgement, he was held to be entitled to the benefits of the pension scheme. We find no error whatsoever apparent on the face of record or any other analogous ground justifying a review of the order. Even if the MA for condonation of delay were to be allowed, this review application is not maintainable on merits. The MA for condonation of delay is disposed of accordingly and the Review Application is hereby dismissed as being devoid of merits.


(G.P. SHARMA)
MEMBER (A)


(GOPAL MISHRA)
VICE CHAIRMAN

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