

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 19.10.95.

OA 35/95

P.D. Mishra s/o Shri D.C. Mishra, Mistry in the office of Western Railway, Ajmer, before his retirement.

... APPLICANT.

VERSUS

Union of India and others

... RESPONDENTS.

CORAM:

HON'BLE MR. N.K. VERMA, MEMBER (A)

HON'BLE MR. PATTAN PRAYASH, MEMBER (J)

For the Applicant

... Mr. D.P. Ojha

For the Respondents

...

ORDER

PEF HON'BLE MR. N.K. VERMA, MEMBER (A)

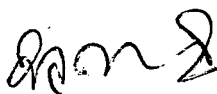
Heard. The applicant in this OA was compulsorily retired by the Railway on 6.7.71. At the time of his retirement he was beneficiary of the State Railway Provident Fund Scheme and he retired with the scheme to which he was entitled at that time. He made a representation on 7.11.89 to the General Manager, Western Railway, opting for the pension scheme introduced by the Government of India drawing the attention of the judgement of the Hon'ble Supreme Court in the Special Leave Petition in respect of an order dated 11.1.87 of the Central Administrative Tribunal, New Bombay Bench, in TA No.27/87. He was given a reply from the Chief Workshop Manager, Ajmer, that no instructions in regard to option for officials who retired between the period 1.4.69 to 14.7.72 was received in his office. Under the circumstances, his representation could not be disposed of. A further representation in this respect was submitted by the applicant on 12.11.90, in which he reiterated the claim that officials who retired between the period 1.4.69 to 14.7.72 can now opt for pensionary benefits even without giving any option. The Railway replied this representation on 29.11.90 saying that no such instructions have been received by that office in this regard and the matter ended there. A similar reply was also given on 21/22.2.91, in which the Railway again intimated that instructions have not been received for giving pensionary benefits to retirees between 1.4.69 to 14.7.72. In view of that, no action could be taken on his representation. The applicant thereafter moved this Tribunal on 2.3.94 and his application was disposed of with a direction that representation made by the applicant on 12.11.90 should be disposed of within a period of two months from the date of receipt of copy

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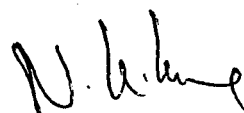
of the order of the Tribunal. It was also stated therein that if the applicant was aggrieved by any decision taken on the representation, he may file a fresh OA. It appears from the perusal of Annexure A-8 in this OA that a final reply on his representation was given to the applicant by the Railway on 21/22.2.91 with reference to his representation dated 12.11.90. A perusal of the order given by this Tribunal indicates that the applicant had made an averment and submission that his representation dated 12.11.90 had not been disposed of by the respondents and hence he was compelled to approach the Tribunal. Annexures A-7 and A-8, filed with the present OA, totally contradict ~~that~~ the averments and submissions ~~were~~ made at that time. His representations were duly considered and a speaking order was sent rejecting his case and yet the applicant tried to mislead the Tribunal by making wrong submissions.

2. The present application is again an attempt to abuse the judicial process. The order dated 2.8.94 had clearly indicated that his representation should be disposed of by the respondents within two months of the date of receipt of that order. If the respondents had not disposed of the representation, the applicant had the opportunity to move this Tribunal again with a contempt petition for non-compliance of the direction of this Tribunal. Yet the applicant has chosen to keep silent about it for nearly six months and has come up with a fresh OA for adjudication before this bench.

3. In view of the observations made above, the OA is dismissed at the admission stage itself.



(RATTAN PRAKASH)
MEMBER (A)



(N.K. VERMA)
MEMBER (A)

VK