

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA 442/2003

DATE OF ORDER: 24.10.2003

Marshal D'souza son of Shri V.M.D'souza, aged about 78 years.  
Resident of C/o Mr. Messay, Jain Dharamshala, Kota Jn. Kota  
(Rajasthan).

..... Applicant

VERSUS

1. Union of India through General Manager, West Central Railway, Jabalpur (M.P.).
2. Divisional Railway Manager, Ratlam Division, West Central Railway.

..... Respondents

Mr. Hemant Gupta, Counsel for the applicant.

CORAM:

Hon'ble Mr. M.L. Chauhan, Member (Judicial)

ORDER (ORAL)

The applicant has filed this OA whereby praying for the following reliefs:-

- "(i) to direct the respondents to grant the pension on compassionate/Ex-Gratia grounds to the applicant from the date of his retirement from service or in the alternative from the date of filing of this Original Application at the rate of Rs.3000/-per month;
- (ii) Any other order or direction which this Hon'ble Tribunal may deem just and proper in the facts & circumstances of the case may kindly be passed in favour of the humble applicants including award of cost of this Original Application."

2. The facts of the case are that the applicant was initially appointed in the Railways on 1.7.1952 on the post of Welder and Zyglid Operator. It is further alleged that due to family circumstances the applicant had resigned from service on 1.5.1975. After the retirement, the applicant was paid a sum of Rs.19,000/- as full and final payment of his retiral benefits under SRPF Scheme. It is further contended that in the year 1975, an option was available to the employees retiring under SRPF Scheme to shift into pension scheme but the applicant could not exercised his option. It is further contended that on 10.5.1993, the applicant made a representation to the General Manager, Western Railway, Mumbai for considering his claim for pension but the same was not granted to him. It is for these reasons that the applicant has filed this present OA.

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3. I have heard the learned counsel for the applicant. As per the averment made in the OA, the applicant had resigned from service on 1.5.1975. This OA has been filed after lapse of about 28 years. The present OA is also not accompanied by any application for condonation of delay. As such, in view of the provisions contained under Section 21 of the Administrative Tribunal's Act, 1985 and also as per law laid down by the Apex Court in Ramesh Chand Sharma vs. Udham Singh Kamal reported in 2000SCC (LBS) 53, a such application cannot be entertained and admitted. Accordingly, the present OA is hopelessly time barred.

4. Otherwise <sup>also</sup> on merits, the applicant has got no case. The applicant has not placed on record any instructions which indicates that the employee who had retired under SRPF Scheme can shift to the pension Scheme at the relevant time ~~when~~ when the resignation was submitted. As already stated above, even if it is presumed that such option was made available under the SRPF Scheme in the year 1975, admittedly the applicant has not exercised such option. Further the applicant cannot be said to be retiree from Railway Service rather he has ~~submitted~~ <sup>even</sup> submitted resignation. Thus, if it is presumed that such benefit was available under SRPF Scheme, the same cannot be extended to the applicant as he cannot be said to be retired from Railway Service. Further no such option was exercised by the applicant.

5. For the reasons stated above, the OA is dismissed at the admission stage with no order as to costs.

  
(M.L. CHAUHAN)  
MEMBER (J)