

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT AT INDORE

Original Application No. 227 of 2002

Indore, this the 14th day of November, 2003

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

Harisingh, S/o Kishan, Aged 73
years, Retired Gang Jamadar,
from Permanent Way Inspector,
Western Railway Vikramgarh Alote,
Resident of Nav Khedi - Alote.

... Applicant

(By Advocate - Shri A.N. Bhatt)

V e r s u s

Union of India and others

Represented by :-

1. The General Manager,
Western Railway, Headquarter
office, Churchgate-Mumbai-20.
2. The Divisional Rail Manager,
Western Railway, Divisional
office-Kota (Rajasthan).

... Respondents

(By Advocate - Shri Y.I. Mehta, Sr. Advocate assisted by
Shri D.S. Patel)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

The applicant has filed this Original Application claiming the relief by seeking a direction to the respondents to grant pension and pensionary benefits to the applicant from 30.09.1986 with arrears thereon.

2. The brief facts of the case as stated by the applicant are that the applicant who was working as Gang Jamadar under Chief Permanent Way Inspector, Vikramgarh Alote in Railway retired from service on 30.09.1986. He was paid the settlement contributory dues under provident fund scheme though he was entitled for pension and pensionary benefits under the then prevailing rules. He was compulsorily governed by this rule as per orders

Ch

issued by the Railway Board with the sanction of the Hon'ble President of India. Accordingly, for redressal of his grievances he has filed this aforesaid Original Application.

3. Respondents in their reply have stated that it was mandatory on the part of the employee to refund Government contribution to the contributing ^{or y &} provident fund with interest and for that purpose the applicant was intimated vide their letter dated 15.09.1987 and therefore the applicant is not entitled to any relief as claimed by him in the Original Application and the same is liable to be dismissed.

4. Heard both the learned counsel for the applicant and the respondents and perused the record.

5. The learned counsel for the applicant has drawn our attention to Annexure A-3/para 4 of Appendix-5 provides that CPF beneficiaries who were in service on 1.1.1986 and those who continued to be in service on the date of issue of the said order were, however, automatically deemed to have come over ^{to} the Pension Scheme unless they specifically opted to continue under the Contributory Provident Fund Scheme. The last date for such option was 30.09.1987. The learned counsel for the applicant states that since the applicant has not specifically opted and continued under the contributory Provident Fund Scheme, he was automatically deemed to have come over the pension scheme and therefore he is entitled for payment of pension under the aforesaid rule and the relief claimed for in this OA should be granted. On the other hand, the learned counsel for the respondents ^{has} drawn our attention to Annexure A-4 which is a letter No. PC-IV/87/Imp/PW1, dated 08.05.1987 of Railway Board and para 3.3 ^{thereof} is applicable in this case. The relevant para is extracted below :

 "3.3. The CPF beneficiaries, who were in service on

1.1.1986, but have since retired and in whose cases retirement benefits have also been paid under the CPF Scheme, will have an option to have their retirement benefits calculated under the Pension Scheme, provided they refund to the Government the Government contribution to the Contributory Provident Fund and the interest thereon, drawn by them at the time of settlement of CPF Account. Such option shall be exercised latest by 30.09.1987."

He has also submitted that since the applicant has not given his option and ^{has} ~~also~~ not refunded the amount of CPF already paid to him he cannot be deemed to have come under the pension scheme and therefore he is not entitled for the benefits of the pension scheme as claimed by him.

6. We have carefully perused the Annexure A-3 and the letter dated 08.05.1987 (Annexure A-4) and we are of the considered view that the Rule 3.3 is applicable in the case of the applicant. Rule 3.4 as pointed by the learned counsel for the applicant is not applicable in this case. Rule 3.3 specifically provides that option is required to be given by the Government servant who has been paid the benefit ^{within 30.09.87} under the CPF scheme. It is an admitted position that no option for the pension scheme as required under the paragraph 3.3. of the said letter has been given by the applicant. Therefore he is not entitled to get the benefit under the pension scheme.

7. Accordingly, we find that the OA is without any merit and the same is dismissed. No costs.

(G. Shanthappa)
Judicial Member

(M.P. Singh)
Vice Chairman

卷之三

पृष्ठांकन ये ओ/ल्या.....जबलपुर, दि.....
 पत्रिलिपि अब्दे रिहावः—
 (1) सत्यिं, उक्त अधिकारी द्वारा दिलेक्ता ये जबलपुर
 (2) अंकुर दी/रिहावी/एस. द्वारा दिलेक्ता ये जबलपुर
 (3) प्रस्तुती दी/श्रीदीपा/पु. द्वारा दिलेक्ता ये जबलपुर
 (4) दंशराज, केप्रभा, जयराज, अमरा
 अमाला एवं आवश्यक कार्यकाली देख


AN Mgmt, Ad. I
mktg, Ad. I

John C. Keay
17.11.07