

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR.

....

Original Application No. 240 of 1998
this the 19th day of February'2003.

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Mulla Moti, aged about 74 years, S/o late Sri Moti,
Retd. Gangmat, R/o Village Khurai Tehsil Khurai,
District Sagar (M.P.)

Applicant.

By Advocate : None

Versus.

1. Union of India through Secretary, Department of
Central Railways, New Delhi.
2. The Divisional Railway Manager, D.R.M. Office,
Central Railway, Jabalpur.

Respondents.

By Advocate : Sri S.P.Sinha.

O R D E R (ORAL)

By this O.A., the applicant has sought a direction to the respondents to start the payment of monthly pension to him on the basis of latest pay-scale and to pay entire arrears of his pension as well as all other pensionary and post retiral benefits as per law alongwith gratuity etc.

2. It is submitted by the applicant that he retired from service on 30.6.1982 on attaining the age of superannuation and thereafter he fell sick, therefore, he could not approach the respondents for payment of his pension etc. In December'97, when he recovered from his illness, he gave a representation to the authorities, but till date he has not been given any

single paise towards his pensionary benefits. It is further submitted by him that since he is seeking pension it is a recurring cause of action as the cause of action arises every month, therefore, the O.A. is within limitation.

3. The respondents have opposed the O.A. on the ground that the applicant has not come with clean hands inasmuch he has suppressed the material facts, therefore, the O.A. needs to be dismissed on this ground itself. On merits, they have stated that the applicant was a subscriber of Provident Fund (SRPF) and on his retirement on 30.6.82 he was paid his deposit with Railways equal contribution and since the applicant was under the State Railway Provident Fund Scheme in which the employees are paid double the amount deposited by him, ~~and~~ such SRPF optees are not entitled for pension. They have further submitted that the applicant has never made any representation. On the contrary, vide letter dated 5.2.83, he was informed that the period of option had been extended and in case he desires to switch over to the pension scheme, he should refund the amount of Rs.9496/- but the applicant did not opt, therefore, he is not entitled to any relief as claimed by him. They have, thus, submitted that the O.A. is totally misconceived and is liable to be dismissed with costs. They have also submitted that the applicant gave his application for the first time on 30.3.98, ^{wh} such a belated request cannot be acceded to, nor can switch over to pension scheme. W. R.

4. I have heard the respondents' counsel and perused the pleadings as well.

5. It would be relevant to mention that the applicant has not even bothered to file any Rejoinder to the Counter reply filed by the respondents, therefore, in

single paise towards his pensionary benefits. It is further submitted by him that since he is seeking pension it is a recurring cause of action as the cause of action arises every month, therefore, the O.A. is within limitation.

3. The respondents have opposed the O.A. on the ground that the applicant has not come with clean hands inasmuch he has suppressed the material facts, therefore, the O.A. needs to be dismissed on this ground itself. On merits, they have stated that the applicant was a subscriber of Provident Fund (SRPF) and on his retirement on 30.6.82 he was paid his deposit with Railways equal contribution and since the applicant was under the State Railway Provident Fund Scheme in which the employees are paid double the amount deposited by him, ~~and~~ such SRPF optees are not entitled for pension. They have further submitted that the applicant has never made any representation. On the contrary, vide letter dated 5.2.83, he was informed that the period of option had been extended and in case he desires to switch over to the pension scheme, he should refund the amount of Rs.9496/- but the applicant did not opt, therefore, he is not entitled to any relief as claimed by him. They have, thus, submitted that the O.A. is totally misconceived and is liable to be dismissed with costs. They have also submitted that the applicant gave his application for the first time on 30.3.98, ^{wh} such a belated request cannot be acceded to, nor can switch over to pension scheme. W. R.

4. I have heard the respondents' counsel and perused the pleadings as well.

5. It would be relevant to mention that the applicant has not even bothered to file any Rejoinder to the Counter reply filed by the respondents, therefore, in

law the averments made by the respondents are deemed to have been accepted by the applicant. Annexure R-1 clearly shows that the applicant was given an option way back in the year 1983 itself to refund the amount of Rs.9496/- in case he wanted to convert to the pension scheme, but no response was given by the applicant, nor did he deposit the said amount with the respondents and since the applicant was a member of SRPF, he had already been paid the double amount deposited by him, by the respondents, therefore, he would not be entitled to any pension. Infact, the applicant has suppressed all these relevant facts before the Court also, that itself is a good ground to dismiss his application as it is settled that a person who comes to the Court must come with clean hands and if he suppresses the material fact, he requires no consideration by the Court at all, but in the instant case, apart from suppression of facts, I also find that there is no merit in the O.A.. The O.A. is totally misconceived and it is accordingly dismissed with no order as to costs.

(Mrs. Meera Chhibber)
Member (J)

Girish/-

swed
25.2.03
BS

f
f
f

m. A. G. Dada
S. D. Sinha Dada

Indra Kumar
26/2/03