

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-551/2016

Reserved on : 01.08.2017.

Pronounced on :04.08.2017.

Hon'ble Mr. Shekhar Agarwal, Member (A)

Sh. Tungal Giri, 62 years
S/o late Sh. Kishan Giri,
R/o Village Bharana,
P.O. Bharana,
Distt. Bulandshehar,
Greater Noida-II, UP.

..... Applicant

(through Sh. A.V. Shukla, Advocate)

Versus

1. Union of India through
The Secretary,
DTC I.P. Headquarters,
New Delhi.

2. Delhi Transport Corp.,
I.P. Headquarters,
New Delhi

Through its Chairman/Managing Director. Respondents

(through Ms. Ruchira Gupta, Advocate)

ORDER

The applicant joined Delhi Transport Authority (DTC) as Conductor on 17.03.1981. He retired on attaining the age of superannuation on 31.10.2012. According to him, his service was free from any blame. His grievance is that the respondents have denied departmental pension to him for which he has been

agitating since long. He first made an application for the same on 3.10.2007 and sent another letter on 07.09.2009. He again wrote to the respondents on 17.09.2010. He filed an application under RTI Act and requested the respondents to provide the application which he had submitted while opting for the new Pension Scheme. He was informed that such an application was not available in his service-book. On the basis of this, he has claimed that he never opted for new Pension Scheme and that he was entitled for old Pension Scheme. He sent a legal notice on 16.01.2012 and another one on 22.03.2014 but did not receive any reply to the same. He has, therefore, approached this Tribunal seeking the following relief:-

“(a) Grant the pension as per the scheme of the respondent no. 2/D.T.C. to the applicant in the interest of justice.

(b) Pass other relief/order which this Hon'ble Tribunal may deem fit and proper may be granted/passed in favour of the applicant and against the respondent in the interest of justice.”

2. In their reply, the respondents have submitted that the applicant retired from the Corporation on 31.10.2012. He was issued retirement memo on 17.04.2012 in which it was clearly stated that he was not a pension optee. Thereafter, his entire contributory fund was released on 26.10.2012 and all his unpaid dues, such as, salary, LTC claim, Medical claim, leave salary, bonus, DA arrear, HRA difference and over time allowance etc. were released on 19.06.2013. All these dues were accepted by him without demur. Now, he has filed

this O.A. in January, 2016. This O.A. is liable to be dismissed as it is beyond the period of limitation. The respondents have further drawn my attention to various documents that they have submitted in support of their contention. Thus, as Annexure R-1 to their affidavit is attached a copy of their communication dated 17.04.2012 by which the applicant was retired from the services of the Corporation. Para-2 of this Memo makes it clear that the applicant has been treated as non pension optee. The respondents have also drawn my attention to their communication dated 21.05.2013 Annexure R-2, which is regarding P.F. settlement of the applicant. Again, in para-2 of the same, it is mentioned that the applicant was non pension optee. Annexure R-3 is their communication dated 26.10.2012 by which the gratuity of the applicant has been paid. This communication also contains the observation that he was not a pension optee. Communication dated 29.01.2014 regarding payment of difference of gratuity to the applicant also contains the same observation. At Annexure R-4 is the communication dated 19.06.2013 by which all unpaid dues of the applicant had been settled. Lastly, at Annexure R-5 is a photocopy of page-1 of the service-book of the applicant wherein also a stamp can be seen which shows that the applicant has not opted for pension.

3. I have heard both sides and have perused the material placed on record. The respondents have produced several documents to

show that the applicant had not opted for the DTC Pension Scheme. In contrast, the applicant could not cite a single document in support of his claim, barring few letters, which he claims he wrote to the respondents at different time requesting for grant of pensionary benefit. In view of over whelming evidence against him, it is not possible to accept his contention that he had opted for DTC Pension Scheme. Moreover, I find merit in the contention of the respondents that having accepted all the dues without demur in 2012 and 2013, the applicant could not have filed this O.A. in 2016 belatedly and that this O.A. should, therefore, be treated as barred by limitation.

4. Thus, both on merits as well as on the ground of limitation, I do not find any substance in this O.A. Accordingly, the same is dismissed. No costs.

(Shekhar Agarwal)
Member (A)

/Vinita/