

Krishan Kumar

Vs

Union of India and Others

Balbir Singh and Others

Vs

Union of India and Others

Special Leave Petition (Civil) No. 8461 of 1986 and Writ Petitions Nos. 1285, 1575 of 1986 And
352 and 361 of 1989

(L. M. Sharma, M. H. Kania JJ)

07.04.1989

ORDER

1. All the petitioners before us are retired railway servants who were in service of Railways on November 16, 1957 when Pension Scheme was introduced in Railways. Prior to that, all employees including the petitioners were governed by the Provident Scheme. All the petitioners had the opportunities to exercise their option and opt for the Pension Scheme subject to certain adjustments. The minimum number of such options enjoyed by any of the petitioners before us was two. According to the petitioners, they have not exercised this option to opt for the Pension Scheme in view of the pensions payable at the respective dates on which such options were available. It has been submitted by them that they should be given such an option again in view of the substantial increase in pensions now available. The argument of the petitioner is that whenever an option is given to opt for Pension Scheme, the fixation of any cut-off date, that is, a date limiting options to persons who were in service at the back date mentioned is not permissible in law.

2. Although, a view has been taken by this Court that all the pensioners are entitled to be treated alike, there is, however, no decided case where the employees who had the benefit of the Provident Fund Scheme and took those benefits, have been held entitled to opt for the Pension Scheme without fixing a cut-off date. The question raised is of considerable importance. Even, as far as the financial implications to the Railways are concerned, they would be immense. The same question would again arise in connection with other departments of the government or State Undertakings where a similar situation might have existed. In view of this, we are of the view that the matter should be decided by the larger Bench, preferably comprising five learned Judges or at least, of three learned Judges.

3. Before parting with the matter we may add that many of the retired employee before us are quite old and are anxious that their matters should be decided very early. The matter is, of course, one which deserves to be disposed of very expeditiously.

4. We, therefore, direct that the papers may be placed before the learned Chief Justice of appropriate orders.

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