

SUPREME COURT OF INDIA

Union of India (Uoi)

Vs.

Shankar

(V.N. Khare and S.N. Phukan JJ.)

04.05.2000

ORDER

V.N. KHARE, J.

1. The respondent herein entered into the service of Scindia State Railway, Gwalior on 1.12.1949. On reorganisation of the Indian Railways, the respondent was absorbed in Indian Railways. On 16.11.1957, pension scheme was made applicable to the railway employees. On 11th March, 1958 the respondent gave an option for State Railway Provident Fund and not for the Pension Fund. On 4th December, 1976 the respondent voluntarily retired from service. On his retirement the respondent was paid Provident Fund in as much as all the retirement benefits. In the year 1995, the respondent filed an O.A. before the Central Administrative Tribunal, Jabalpur praying for cancellation of his option for Provident Fund and a further direction to the appellants to pay pension under the Pension Fund Scheme. The Tribunal accepted the prayer for the respondent and directed the appellants to pay pension to the respondent. It is in this way, the appellant is in appeal before us. It is not disputed that the respondent had given voluntary option in the year 1958 for having Provident Fund under the State Railway Provident Fund. It is also not disputed that the respondent voluntarily retired from service and he then also opted for the Provident Fund, which was offered and accepted by him. Thereafter, he remained silent. It is nearly after a lapse of 18 years that the respondent filed an O.A. before the Central Administrative Tribunal for change of option which was already given effect to. No satisfactory explanations were given in the application for the delay in filing such a belated petition. We are of the view that such a belated petition ought not to have been entertained by the Central Administrative Tribunal. Moreover, the respondent having opted and accepted Provident Fund it was not open to him to move the Tribunal for cancellation of option.

2. For all these reasons these appeals deserve to be allowed. The judgment and order is set aside. The appeals are allowed with no order as to costs.