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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2719/2019**

RATHINDRA NATH MANDAL Petitioner

Through Mr.Fayyaz Ahmed, Adv.

versus

UNION OF INDIA & ANR Respondent

Through Mr.Arun Bhardwaj with Mr.Nikhi
Bhardwaj, Advs.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **20.03.2019**

C.M. No.12542/2019

Exemption allowed, subject to all just exceptions.

W.P.(C) 2719/2019

The petitioner assails the order dated 17.12.2018 passed by the Central Administrative Tribunal, New Delhi in O.A.No.1223/2017. The Tribunal has rejected the said original application of the petitioner by placing reliance on its order passed in O.A.No.1252/2017 on 04.12.2018, whereunder the said original application had been rejected.

The petitioner had preferred the original application to seek coverage under the Old Pension Scheme. The brief and relevant facts of the case are that the petitioner was discharged from Indian Air Force

in November, 1997. Upon applications being invited by the respondent/Aviation Research Centre under the Cabinet Secretariat in the year 1999 for the post of Junior Technical Officer Grade II (Radar) now the petitioner submitted made his application. Evidently, the selection process dragged out for many years and the petitioner was offered appointment on 19.07.2004, pursuant where to he joined service on 27.08.2004.

At the time of his appointment the petitioner was given an option as to whether he desired his past service to be counted, which option he declined. The Old Pension Scheme under which the petitioner desires coverage service was effective till 31.12.2003 and thus, those who joined the service after 01.01.2004 were covered under the New Pension Scheme.

In our view, there is absolutely no merit in the petitioner's claim. The petitioner, admittedly, did not raise any grievance from 1999 that his appointment was being unduly delayed. He was appointed only on 19.07.2004, whereas the Old Pension Scheme was not in operation after 31.12.2003. The petitioner would be governed by the terms and conditions and the rules and regulations which were prevailing on the date of his appointment. Moreover, he has raised this claim by preferring the original application only in the year 2017. Moreover, the petitioner had not exercised his option to seek benefits of his past service, even though, he had right to exercise his option within one year from the date of his appointment.

It, therefore, appears that the petitioner availed the pensionary and other retiral benefits of his service with the Indian Air Force where

from he was discharged in the year 1997, and continued to do so while under re-employment with the respondent. Had he exercised his option to count his past service, he would not have drawn the pensionary and other retiral benefits of his past service and would have got the same upon his final retirement from the respondent.

We, therefore, find no merit in the petitioner's claim and the same was also highly belated and barred by limitation.

In view of the aforesaid, the present petition is dismissed.

VIPIN SANGHI, J

REKHA PALLI, J

MARCH 20, 2019

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