# Legal Case Summary: Union of India & Anr vs M.M. Sarkar (2009)

Case Title: Union of India & Others vs M.M. Sarkar

Citation: 2009 AIR SCW 7621, 2010 (2) SCC 59, AIR 2009 SC (Supp) 2158, (2009) 14 SCALE 425

Court: Supreme Court of India

Date of Judgment: 8 December 2009

Bench: K.S. Radhakrishnan, R.V. Raveendran (Author)

## Facts of the Case:

- M.M. Sarkar joined Railway service in 1947 under the Contributory Provident Fund (CPF) Scheme.  
- Indian Railways introduced a Pension Scheme in 1957.  
- Between 1957 and 1974, eight opportunities were given to employees to switch from CPF to the Pension Scheme.  
- Sarkar never opted for the Pension Scheme during service and retired voluntarily in October 1976, still under CPF.  
- He received full CPF benefits at retirement.

## Procedural History:

- In 1998, 22 years after retirement, Sarkar requested to be switched to the Pension Scheme, offering to refund CPF amount.  
- His request was rejected by the Railway Board in 2004.  
- He approached the Central Administrative Tribunal (CAT), which directed reconsideration.  
- After reconsideration, the Railway Board again rejected the request in 2004.  
- Sarkar filed a second application with CAT. The Tribunal allowed it in 2005 due to Railways not contesting.  
- The High Court upheld CAT’s order in 2006.  
- Union of India appealed to the Supreme Court.

## Issues before the Court:

1. Can Sarkar be allowed to opt for the Pension Scheme 22 years after retirement despite multiple earlier opportunities?  
2. Does failure to provide personal written notice justify his delay?  
3. Can Sarkar claim pension benefits on grounds of parity with others who were granted late options?

## Judgment:

- The Supreme Court allowed the Union of India’s appeal.  
- Orders of CAT and High Court were set aside.  
- Sarkar’s application was dismissed.

## Key Legal Findings:

1. Deadline for Pension Option Final: The last date was 31.12.1978, and Sarkar had several chances before his retirement in 1976.  
2. Constructive Notice Valid: As Head of Department, Sarkar was expected to know about the options; personal notice was not mandatory.  
3. Delay and Laches: The 22-year delay made the claim time-barred. Courts should not revive stale disputes.  
4. Equality Principle Misapplied: Others wrongly given pension cannot be a basis for granting similar illegal relief to Sarkar.  
5. Previous Case (D.R.R. Sastri) Distinguished: Sastri was not informed of the option. Sarkar, being in service and in-charge of communications, had full knowledge.

## Final Decision:

✅ Appeal allowed  
✅ CAT and High Court orders quashed  
✅ Sarkar’s application dismissed