

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1012/2001

New Delhi, this 1st day of January, 2002

Hon'ble Shri M.P. Singh, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

Tejvir Singh
Junior Engineer(P-Way)
Northern Railway, Etah .. Applicant

(By Shri B.S. Mainee, Advocate)

versus

Union of India, through

1. General Manager
Northern Railway
Baroda House, New Delhi
2. Divisional Railway Manager
Northern Railway, Allahabad
3. Sr. Section Engineer (P-Way)
Northern Railway, Tundla .. Respondents

(By Shri P.M.Ahlawat, Advocate)

ORDER(oral)

By Shri M.P. Singh, Member(A)

By filing this OA under section 19 of AT Act, 1985, the applicant has impugned the order dated 28.7.2000 issued by the Divisional Personnel Officer, Northern Railway, Allahabad.

2. The applicant was appointed as APW-I(JE Gr.III) on 23.8.88 in the pay scale of Rs.1400-2300 and subsequently he was promoted as JE Gr.II in the pay scale of Rs.1600-2600 vide order dated 23.2.96. By the aforesaid order, applicant was asked to give his option for fixation of pay in accordance with Railway Board Circular No.7937 within a period of one month. According to the applicant he had given his option within the stipulated period for fixation of his pay



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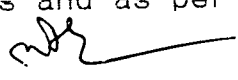
with effect from the date of next increment i.e. 1.8.96. Respondents however did not fix his pay as per his option. He submitted his representation requesting the respondents to do the needful. Respondents vide order dated 28.7.2000 rejected the representation of the applicant. Aggrieved by this, he has filed this OA seeking directions to quash and set aside the impugned order and direct the respondents to fix his pay as per option given by him from the date of next increment which accrued to him from 1.8.96.

3. Respondents in their reply have contested the case and have stated that the applicant did not give his option within the period of one month for fixation of his pay in the pay scale of Rs.1600-2600 on his promotion to the post of JE Gr.II. They have also stated that the applicant had sent his joining report along with monthly absentee statement but did not exercise option for fixation of pay. They have verified this fact through the Sr. Subordinate of the applicant. After examining the genuineness of his claim carefully, they found that the applicant did not submit his option within one month from the date of his promotion. Hence he was not entitled for fixation of pay in the next higher grade on the date of next increment i.e. 1.8.96.

4. Heard the learned counsel for the rival contesting parties and perused the records.

[Signature]

5. The question for consideration before us is whether the applicant is entitled for fixation of pay in the higher grade at the time of his promotion from the date of his next increment. As per Railway Board Circular No.7937, applicant has the option to get his initial pay re-fixed in the higher post on the basis of Rule 2018(B)R II(FR 22-C) straightaway without any further review on accrual of increment in the pay scale of the lower post or on the date of accrual of next increment in the scale of pay of the lower post. This option has to be given within one month of the date of promotion and the option once exercised shall be final. In the present case, we find that the applicant had exercised his option within a period of one month for fixing his pay from the date of his next increment i.e. 1.8.96 (A-2). The Clerk concerned had endorsed the statement of the applicant that he gave his option for fixation of pay from the date of his next increment. Vide letter dated 2.1.99 the Sectional Engineer had also certified that the endorsement made by the Clerk on the letter dated 29.2.96 is in accordance with records available in the office. It means that the applicant had already given his option to fix his pay in the higher grade with effect from 1.8.96, which was his date of next increment. Even if the option exercised by the applicant had not been received in the office of respondents, they could have again obtained a fresh option from the applicant and fixed his pay in the higher grade w.e.f. the date of his next increment i.e. 1.8.96. After all, the applicant has been requesting the respondents to fix his pay in the higher grade in accordance with rules and as per option available to him



under Railway Board Circular No.7937. In such a situation, the respondents should not have insisted upon the time-limit of one month as the applicant was not responsible for loss/misplacing the document which contained the option exercised by him for fixation of his pay.

6. In this view of the matter, the OA is allowed and the respondents are directed to refix the pay of the applicant in the higher grade of JE Gr.II with effect from 1.8.96 as per option given by him with all consequential benefits. This shall be done within a period of three months from the date of receipt of a copy of this order.

S. Raju
(Shanker Raju)
Member(J)

M.P. Singh
(M.P. Singh)
Member(A)

/gtv/