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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O. A. NO. 2201/1999

New Delhi this the 16th day of January, 2001.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

1. V.K. Saxena
S/o Shri Late Bishan Narain Saxena
office of Mech.
(C&W), Northern Railway
Dehradun.
2. Ram Autar Yadav
S/o Shri Raghbir Singh
under D.R.M.
Northern Railway
Moradabad (Mech. Br.)
3. Chet Ram
S/o Shri Gulzari Lall
H.No. 316 Railway
Harthola Colony
Moradabad.
4. Hans Lal Ram
S/o Shri Tara Ram
Village Sarayan
P.O. Karantadih Distt.
Ballia. (U.P.).
(Office of SSE/BE)
5. Hamid Ali
S/o Shri Liaqat Ali
office of CDO
Northern Railway
Moradabad.
6. Baboo Ram
S/o Shri Budhi Lal
office of CDO/
Northern Railway/BE.
7. Jethoo Singh
Mech. Section
D.R.M.'s Office
Northern Riy.
Moradabad. Applicants

(By Mrs. Meenu Mainee, Advocate)

-versus-

1. The General Manager
Northern Railway
Baroda House
New Delhi.



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2. The Divisional Railway
Northern Railway
Moradabad.

3. The Senior Divisional Accounts Officer
Northern Railway
Moradabad. ... Respondents

(By Advocate Shri R.P. Aggarwal)

O R D E R (ORAL)

Shri S.A.T.Rizvi, Member(A):

MA No. 2189/1999 for joining together in one OA is granted.

2. The applicants, seven in number, were working as Head Clerks when the pay scale admissible to Head Clerks was revised in consequence of the recommendations of the Fourth Central Pay Commission from Rs.425-700 to Rs.1400-2300 with effect from 1.1.1986. For implementing the recommendations of the Fourth Central Pay Commission, the Railway Board issued a circular dated 18.5.1987 indicating, inter alia, that the increment in the pre-revised scale is to be allowed first in cases in which the increment fell due on 1.1.1986 and thereafter the pay fixed in the revised scale of pay. The aforesaid decision was not acceptable to the Railway employees and, therefore, the matter was considered in the National Council of JCM. The staff side (before the JCM) pressed for pay fixation in the revised scale without taking into account the increment in the pre-revised scale and instead insisted on increment being allowed in the revised scale of pay. Accordingly, the Railway Board decided the matter in the following terms:-

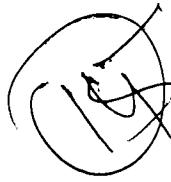
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"After the pay in the revised scale is so fixed, the increment may be allowed on 1.1.86 in the revised scale".

Aforesaid clarification has been issued by the Railway Board vide their circular dated 19.5.1995.

3: The case of the applicants is that while some members of the staff did benefit from the aforesaid circular of 19.5.1995, they could not derive any benefit out of the same as they did not have any knowledge about the existence of such a circular, nor was the same brought to their notice officially and accordingly could not submit their options for pay fixation within six months' period laid down in the circular. The learned counsel for the applicants has placed on record, an order dated 9.2.1996 issued by the Divisional Railway Manager, Moradabad which goes to show that at least three persons working in the Moradabad Division had derived benefit from the aforesaid circular. The contention raised is that while the aforesaid three persons derived the benefit, the applicants, though posted in the same division, could not do so for want of knowledge. The matter was raised before the Labour Court, Dehradun who apparently had jurisdiction in the matter by a letter dated 27.10.1997 sent by the All India Scheduled Castes & Scheduled Tribes Railway Employees Association Moradabad Division and, inter alia, on the basis of the aforesaid representation, on 14.1.1998 a commendation was sent by the office of the Divisional

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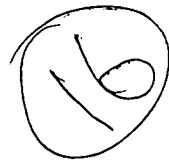
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Railway Manager to the General Manager recommending the reconsideration of the matter, admitting at the same time that the aforesaid circular of 19.5.1995 had not been received in that office through the usual dak and, for that reason, the same could not be circulated by the Moradabad Division. ~~Within the stipulated time laid down there~~. It is to be noted that the Railway Board had prescribed a period of six months within which the employees could file their options in respect of pay fixation in terms of the aforesaid circular of 19.5.1995. As admitted by the office of the Divisional Railway Manager Moradabad Division, the applicants in this OA were prevented from filing their options within the prescribed time limit on account of non-receipt of the aforesaid circular in that office, and for no fault theirs.

4. In the circumstances outlined in the preceding paragraphs, the contention raised by the learned counsel for the respondents that the applicants failed to file their options for no fault of the Railways does not hold good. We, therefore, find it proper, just and fair to allow the applicants to exercise their options in the matter even at this stage so that like others similarly placed, they could also derive benefit from the aforesaid circular. We order accordingly.

5. The applicants in this OA and all others similarly placed are hereby allowed two months' time

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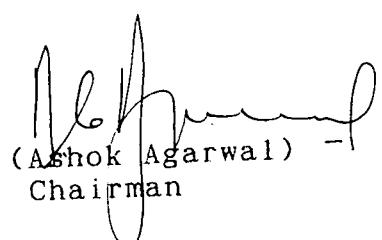
to exercise their options in the matter of pay fixation as above and the respondents are directed thereafter to carry out pay fixation in accordance with the aforesaid circular within a period of three months from the date of receipt of options in each case. Since we have found it proper to extend the benefit aforesaid not only to the applicants but also to all others similarly placed, we would like to direct the respondents to notify the contents of this order inviting options from all those interested within fifteen days of receipt of a copy of this order giving them the same period of two months. It is clarified that consequential benefits in terms of arrears of difference of pay would be allowed to the applicants and all others who apply and the sums due also paid within the aforesaid period of three months.

6. The OA is allowed in the aforesaid terms without any order as to costs.



(S.A.T. Rizvi)
Member (A)

sns



(Ashok Agarwal) -
Chairman