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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, New Delhi**

O.A.No.1192/94

New Delhi, This the 30th Day of September 1994

Hon'ble Shri P.T.Thiruvenkadam, Member (A)

Shri Radha Kishan Garg
Ex-section officer A/cs
Office of F.A. & C.A.O.
Northern Railway
New Delhi

And

Ex-Dy Manager Acs
Indian Railway Constrn. Co. Ltd
Palika Bhavan, Sector XIII, RK Puram
New Delhi 110 066

Resident of: A-109 Gali No.12
Nestal Road, Uttam Nagar, New Delhi.

By Shri V P Kohli, Advocate

...Applicant

Versus

Union of India

Through:

1. The Secretary
Railway Board
Rail Bhawan, New Delhi.

2. General Manager
Northern Railway
Baroda House,
New Delhi.

..Respondents

By Shri P S Mehendru, Advocate

O R D E R (oral)

Hon'ble Shri P.T.Thiruvenkadam, Member (A)

1. The applicant was working as a Section Officer A/cs in Northern Railway and was sent on deputation to Indian Railway Construction Company Limited (IRCON) on 21.12.81. An order was issued on 2.4.86 by the respondents stating that the applicant has been absorbed in IRCON with effect from 22.12.84. The issue of back dating of absorption was raised in a number of OAs and in OA 1002/88 filed by the applicant in this Bench, the Tribunal has passed an order on 20.11.92. The operative portion of the order reads as under:

Para 14 The law having been well-settled in the case of J.Sharan(Supra), we direct that the lien of the applicants in the parent department cannot be treated as terminated from a date prior to the date the railway authorities issued their approval to the acceptance of resignation or retirement of the applicants.

Para 15. The applicants will be entitled to all consequential retiral benefits in so far as the liabilities of the railways are concerned in regard to such benefits. With this direction the cases are disposed of with no order as to costs."

2. The applicant submitted representations vide his letters dated 18.2.93 and 18.2.93 (Annexure A/2 and A/3 to OA). The first representation was for revised settlement dues in terms of the Tribunal's directions/ recommendations of the Fourth Pay Commission and the second representation was for the same benefit and in addition the applicant gave his option for commutation of pension to 1/3rd instead of 100 percent already given.

3. The respondents have sanctioned the revised settlement amounts vide their letter dated 22.9.93(Annexure A4). The contents of this letter reads as under:

"As a result of Railway Board's decision to provisionally implement the CAT/DLI's common judgement of 20.11.92 in the case of Shri R K Garg, Ex-SO(A/cs) of this Railway subject to the final disposal of the SLP on the matter of principle pending in the Supreme Court in Sharan's case (OA No.364/86) and without prejudice

to filing SLP against the common judgement the acceptance of his resignation from Railways on final absorption in Indian Railway Construction Company Limited has been provisionally revised from 21.12. 1984 AN (issued vide SOO No.190 dt.2.4.86) to 2.4.86 i.e. the date of issue of orders regarding acceptance of resignation in this case.

Sol. Note

1. These orders are provisional and final orders shall be issued only after the disposal of SLP in OA No.364/86 pending in the Supreme Court and other SLPs that may be filed against the common judgement of 20.11.92.

2. Necessary revisions required in this case may be implemented immediately in keeping with CAT's judgement of 20.11.92

(Authority: Orders at pp-8 of file No.93/Adm/ C/5/1/Representation). *

This OA has been filed for a direction to the respondents to allow only 1/3rd of commutation instead of 100 per cent commutation already given and for the payment of remaining pension portion.

4. The learned counsel for the respondents drew attention to the orders passed in OA 1193/94 on 5.9.94 by an another Bench of this Tribunal on a similar issue and on going through the same I find that the matter discussed is on all fours with the issues raised in this OA. For the reasons stated therein it will be proper for me to pass the same order as in that OA. Accordingly this OA is disposed of with the following orders:-

This application is pre-mature and does

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Not make out prima facie case as the payment made to the applicant is only provisional and this has been considered in the CCP filed later.

The application is, therefore, dismissed as not making out prima facie case for admission under section 19, sub clause 3 of the C.A.T. Act 1985." A copy of this order be sent to the Respondents. No costs.

P.T. Thiruvengadam

(P.T. THIRUVENGADAM)
Member (A)
30-9-94

LCP