

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.947/2000

New Delhi, this 20th day of April, 2001

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

1. Hari Singh
B-9, Gourav Apartments
Patparganj, New Delhi
2. Mahesh Nand
B-75, Sector 12, Vijay Nagar
Ghaziabad .. Applicants

(By Shri S.Y. Khan, Advocate)

versus

Union of India, through

1. General Manager
Northern Railway
Baroda House, New Delhi
2. Divisional Railway Manager
Northern Railway, Allahabad
3. Sr. Divisional Electrical Engineer(RS)
Northern Railway, Ghaziabad .. Respondents

(By Shri R.L. Dhawan, Advocate)

ORDER

By filing this OA, applicants have challenged the order dated 21.9.98 by which their claim for refixation of pay in terms of Railway Board's letter dated 5.5.95 has been rejected on the plea of non exercising the option within a period of six months.

2. Briefly stated, the applicants retired from Railway service on superannuation on 31.7.95 and 30.11.95 respectively. When the respondents made some recovery from their service gratuity, they filed OA No.555/96 which was allowed by order dated 1.4.97 with the directions to the respondents to refund the amounts recovered from the applicants. However, upon filing CP No.300/97 by the applicants, the amounts recovered from the service gratuity of the applicants were refunded to them. Thereafter they filed OA No.1122/98 for revision



of pension and other retiral benefits as per last pay drawn on refund of recoveries. The said OA was dismissed as barred by resjudicata.

3. It is the case of the applicants that the Railway Board vide letter dated 5.5.95 decided that government servant whose increment fall on 1.1.86 may be allowed an option to get his pay refixed from 1.1.86 in the following manner:

"The pay in the revised scale on 1.1.86 may be fixed without taking into account the increment due on 1.1.86. After the pay in the revised scale is so fixed, the increment may be allowed on 1.1.86 in the revised scale"

Applicants contend that these instructions were neither circulated nor got noted by them. It has been laid down in para 3 of the said letter that "contents of this letter may be given adequate publicity". Thus the applicants were ignorant of these instructions. They came to know of the same when pay of similarly placed persons like Sagir-ud-din and Hari Chand were refixed w.e.f. 1.1.86 and paid arrears, though they had also not submitted their options within time limit. They made representations which were rejected by the impugned order dated 21.9.98. That is how they are before this Tribunal seeking directions to quash the impugned order dated 21.9.98 and to revise their pension and pay arrears thereof.

4. Respondents have contested the case. They have taken preliminary objections that the OA is hit by resjudicata and also barred by limitation. They contend that Railway Board instructions were circulated in all

sections and displayed on Notice Boards on three occasions by letters dated 28.5.95, 21.6.96 and 14.8.96. There is no provision to inform all the staff individually in person. Since the applications from applicants for refixation of their pay were received after three years, the same were not considered as per rules being time-barred. In view of this position, the OA deserves to be dismissed.

5. Heard the learned counsel for the parties and perused the records.

6. During the course of the arguments, the learned counsel for the applicants drew my attention to the judgements of the Hon'ble Supreme Court in M.R.Gupta vs. UOI 1995 SCC(L&S) 1273 and Aspinwall & Co. vs. Kulsheshkar, Mangalore vs. Lalitha Pradugady & Ors. 1995 SCC(L&S) 127R, in support of his contention. However I find that the issue involved in these cases is different and therefore they are distinguishable from the case on hand.

7. As rightly observed above, the present OA is hit both by resjudicata and limitation. In the result, the OA is dismissed. No costs.



(M.P. Singh)
Member(A)

/gtv/