

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI



O.A. No. 1455/89.  
T.A. No.

199

DATE OF DECISION 6-3-91


<u>Shri R.C. Srivastava</u>	<u>Petitioner</u>
<u>Applicant in person</u>	<u>Advocate for the Petitioner(s)</u>
<b>Versus</b>	
<u>Union of India &amp; Others</u>	<u>Respondent</u>
<u>Shri Inderjit Sharma</u>	<u>Advocate for the Respondent(s)</u>

**CORAM**

The Hon'ble Mr. Justice Amitav Banerji, Chairman

The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✓

  
 (AMITAV BANERJI)  
 Chairman

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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI  
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OA No.1455/89

DATE OF DECISION: 6-3-1991

SHRI R.C. SRIVASTAVA

APPLICANT

VERSUS

UNION OF INDIA & ORS.

RESPONDENTS

CORAM:

THE HON'BLE MR. JUSTICE AMITAV BANERJI, CHAIRMAN

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANT

APPLICANT IN PERSON

FOR THE RESPONDENTS

SHRI INDERJIT SHARMA,  
COUNSEL

(JUDGEMENT OF THE BENCH DELIVERED BY  
HON'BLE MR. I.K. RASGOTRA, MEMBER (A))

Shri R.C. Srivastava, the applicant working as Deputy Chief Signal and Telecom Engineer (Dy.CSTE) on the Northern Railway in the Junior Administrative Grade of Rs. 3700-125-4700-150-5000 has filed this application under Section 19 of the Administrative Tribunals Act, 1985, seeking fixation of his pay in accordance with his option dated 18.3.1988 (page 24 of the paper book).

2. The relevant facts of the case are that the applicant was promoted on adhoc basis in the Junior Administrative Grade w.e.f. 24.6.1985 and was regularised in that grade w.e.f. 10.12.1986 vide Northern Railway's letter dated 12.1.1987. He had initially opted for fixation of his pay consequent to the implementation of the Fourth Central Pay Commission's recommendation vide his option dated 12.3.1987. From the extract of the option reproduced below, it would be seen that he had made his option conditional

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"I, R.C. Srivastav hereby elect the revised scale with effect from 1st January, 1986 subject to the condition that my pay should be stepped up to higher stage on the basis of higher pay fixed for my junior Shri R.K. Singhal, Sr. D.S.T.E. and Shri P.C. Jain, Dy. C.S.T.E. Const."

The prescribed proforma however envisages that the applicant could either elect the revised scale of pay w.e.f. 1.1.1986 or elect to continue on the existing scale of pay of his substantive officiating post until the date of his next increment/the date of subsequent increment when he would vacate or cease to draw in the existing scale. The Northern Railway fixed his pay finally in accordance with his option w.e.f. 1.1.1986. He felt aggrieved as his pay was not stepped up to the level where his juniors S/Shri R.K. Singhal and P.C. Jain were fixed in accordance with his option referred to above.

3. In view of certain anomalies which came to light, the Railway Board gave an opportunity to exercise fresh option to all those who wished to do so vide their letter dated 31.12.1987 (Annexure L to the OA). Accordingly, the applicant filed a fresh option vide his letter dated 18.3.1988 (Annexure M) addressed to the Workshop Accounts Officer, Northern Railway, Signal Workshop, Ghaziabad and the General Manager (P), Northern Railway, Baroda House, New Delhi as reproduced hereunder:-

*[Handwritten signature]*

"With reference to Board's letter dated 31.12.1987 circulated by G.M. (P)/NDLS on 22.1.1983, I hereby opt for my annual increment in J.A. grade from 1.1.1987 instead of 10.12.1986. Necessary fixation slip in RPS may please be issued early."

The applicant who appeared in person submitted that the said option was sent by him through his Confidential Assistant (CA) to the Accounts Office and receipt of the same was acknowledged by the Diary Clerk of the Workshop Accounts Officer (WAO), Ghaziabad. The respondents, however, have denied having received any such option either in the Personnel Branch or in the Accounts Office. The applicant however not insists that he had duly sent his option and got it acknowledged by the Diary Clerk of the WAO. He has, however, not clarified as to why the receipt of the same option has been denied by the GM(P), Northern Railway, Baroda House. If such an option had been actually filed at least one of the two offices viz. the Accounts Office and the G.M. (P)'s office should have substantiated the applicant's claim. That, however, is not the case. Subsequent to filing of this OA, the respondents have refixed his pay as represented by him vide his representation dated 2.7.1987 at the stage of Rs. 4075/- from 28.2.1986 and Rs. 4200 from 1.1.1987, as has been done in the case of Shri P.C. Jain. A revised salary slip has also been issued on 1.11.1989 vide Annexure R-3 annexed to the written statement of the respondents. This has

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been acknowledged by the applicant in his rejoinder, where he accepted that Annexure R-3 to the written statement is the same as RJ-3 annexed by him to his rejoinder. The revised pay slip issued on 1.11.1989 (R-3) places him at par with Shri P.C. Jain who is said to be his junior.

4. We have heard the applicant in person and Shri P.S. Mahendru, the learned counsel for the respondents. While the applicant reiterated that he had submitted his option dated 18.3.1988 and received acknowledgement from the diary clerk of the office of WAO (Annexure-M) on 18.3.1988, we are unable to form the opinion as to the veracity of the acknowledgement. There is no stamp on the photo copy of the option (Annexure M) of the office of WAO or of the Personnel Branch. Further both the departments deny having received any such option from the applicant. We are accordingly of the view that any claim based on the option of 18.3.1988 cannot be legally sustained.

The applicant, however, filed another letter of the Railway Board No.E(P&A)II/87/PP/3 dated 12.11.1990 in the course of hearing, conveying the decision that:

"the employees promoted after 1.1.1985 but before 1.1.1986 and whose date of next increment in the earlier post falls on or after 1.1.1986 may be allowed another option to have their pay fixed in the promoted post under 2018 B-R.II(FR-22(C) either from the date of promotion or date of next increment in the lower post falling on or after 1.1.1986."

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The applicant submitted that in view of the above instructions of the Railway Board he has filed a fresh option on 6.2.1991 which has been duly acknowledged. The applicant felt that the fresh option will solve his problem in any case.

We trust that with the fresh option which the applicant has exercised on 6.2.1991 in terms of Railway Board's letter dated 12.11.1990 the cause of grievance shall be removed. We, therefore, direct the respondents to consider the option exercised by the applicant on 6.2.1991. The application is accordingly disposed of with no order as to costs.

*I.K. Rasgotra*  
(I.K. RASGOTRA)  
MEMBER(A)

*Am*  
(AMITAV BANERJI)  
CHAIRMAN