## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH, NEW DELHI



## DATE OF DECISION 20,11.92.

Reg	D-N	lo. Name	of the applicant V	S. Name of the respondent
1)		0.6	ACUHA .M.	U.O.I., N.RLY
	WIT			
	ØA	2459/88	V. SATYA MURTHI	U.O.I.0/O RAILWAYS
	DA	1418/88	K.L. SETHI	U.O.I.,M/O RAILWAYS
,	OA	1002/88	R.K. GARG	U.O.I., M/O RAILWAYS
	DA	997/88	RESHAM SINGH	U.O.I.,M/e RAILWAYS
	DA	1049/88	RAMESH CHAND	U.O.I.,G.M.N.RAILWAYS
	OA	2458/88	T.SIVARAMAKRISHNA MURTHY	U.C.I.,M/D RAILWAYS
	OA	987/88	RAJ KARAN SINGH	U.O.I.,M/O RAILWAYS
	OA	1077/88	Y.L. DOGRA	U.O.I., M/O RAILWAYS
	BA	1022/88	R.K. GUPTA	U.O.I.,M/D RAILWAYS
•	DA	1060/88	A.P. NARANG	U.O.I., G.M., N.RLY.
•	DA	978/89	N.N. SEETHARAM BHATT	U.O.I. M/O RAILWAYS
·. ·	OA	1431/88	M.D. KHATTAR	U.O.I., M/O RAILWAYS
	OA	1061/88	G.L. KAKKAR	U.O.I.,M/D RAILWAYS
	OA	991/88	S.P. SAREEN	U.O.I., M/O RAILWAYS

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D.A. 1005/88

. I.S. AGGARWAL

. VS. UJI. M/O RAİLWAYS

G.A. 1006/88

ratially being the

M.B.L. JUSHI

SIMP CARESCOLD DAY

VS. UDI. M/O RAILWAYS

U.A. 988/88 J.C. NARANG

VS. UDI, M/D RAILWAYS

D.A. 1059/88 HANUMAN PASAD PURPHIT VS. UDI, M/O RAILWAYS

THE STATE OF THE PARTY OF THE O.A. 1032/88 N.K. MUKHERJEE VS. UOI, M/O RAILWAYS

TENTAL U.A. MO30/88 PREM NATH BIRDIXANA OVS UOI, M/O RAILWAYS

TE DES Q.A. 1071/88 BALBIR SINGH MAHENDI- US. UOI, M/O RAILWAYS

O.A. 2456/88 HANSRAD CHOUDHARY TO VS. UCI, M/O RAILWAYS

Design 90:As 2457/880; Kak o SHARMAs godalodes VS. TUOI, M/D RAILWAYS

.(WIDST) Sadim D.A. 2460/88 K. GOVINDAN US. UDI, M/O RAILWAYS

O.A. 1446/88 S. JAYAHAMAN VS Od Rymesiae end mask basenste base eineballege end

VS. UOI, M/O RAILWAYS

SHRI Y. PRABHAKAR RAD abraides begr

Counsel for all the

SHRI ROMESH GAUTAM

SHRI I.C. SUDHIR

asbienca od

SHRIT S.N. SIKKA TO COMPANY OF PRESPONDENTS.

M/S. A.K. SINGLA & CU.

SHRI K.K. PATEL &

Ms. Majula Gupta Salugas is estig sueda

for IRCON.

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The Hen'ble Mr. Justice Ram Pal Singh,

anulyge Tu GhixeThesHen/bl8/Mf4 liPs Güpte; Mémbera(A)

"salegeb la batto odd 19. Whether Reparters of lacale papers may be

allowed to see the judgment?

noises end esem (2002). To be referred to the Reporter or not?

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## JUDGMENT

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DELIVERED BY HON'BLE SHRI I.P. GUPTA, MEMBER (A) 7 particular date, the acciloanteleter revised their

cestana in regerd to permanent abaccotion once or

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The aforesaid OAs are being disposed of by selfen i chiarentani Tree and the short and the this common order since the issues raised in them are similar in nature. The applicants joined armusely the Railways and worked in the Railways in different capacities. The Government of India Read the AND LONG restablished ampublic Sector: Undertaking called Indian Railway Construction Company Limited (IRCON). grade the did also also 经收益额 "我们" 14.66 The applicants were deputed from the Railways to Listal Evange: "被海路",还是为法国的国际公司 TREAD INCON. The deputation was for a specified period. Later, the Undertaking (IRCON) decided to consider LESODWALHTS. absorption of deputationists in the Undertaking 4.47.79%、101 The applicants were asked to give their fetty figs districte was find blackly options for getting absorbed. The applicants gave the options. Lin most of the cases seeking of options way you are was done prior to the expiry of the period of deputation but there are also some cases such as that of Prem Nath Birdi ZO.A. No. 1030/887 where the option was asked after the expiry of the period of deputation. After having given the option to get absorbed from a 171, 419021 particular date; the applicants later revised their options in regard to permanent absorption once or Laned Jan

more than once. Such changes vere made with a

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人的问题:"如此不可以是使用是我们也可能的,你是想要的对象的是这种的。"就是是是是是是

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中心等于3岁。60世纪时上。1990年8日

to claiming enhanced pensionary benefits in terms 赞《诗诗 安阳 华蒙古 克克拉克克斯 of the recommendations of the Fourth Pay Commission **"我们们们们的** duly accepted by the Government of India.

2. The contention of the Learned Counsel of The second is well the following the analysis of a resident of earliest

the applicants is that change of option regarding 人名英格特斯 电电影电影美国 化水黄 经外 电电影电话 计自然 医水杨

date of absorption could be made any time before

acceptance and in any case the letter of the Railway

renained produced land and the land control bearing and the Authorities conveying their approval to the accep-

医蒙特勒氏性 医乳乳硷硷 三对单二大家

នុស្ស ដែសការ៉ូនិងមេខ និងសក្សីខាំង ២១៤២៣នៃសក្សី ១១ ខេត្ត

學之一性所有自然性性學、性學學、古典性工程等、自由、其工工學等性、美術主持、實際等、大學、企業主義 tance of the resignations of the applicants cons

Carriado estas (Berlos Proposedes Alberto Preson Carro Fores (Describe) in the Estade quent upon their permanent absorptions in IRCON th server and other than and the present the profession of the

could not have a retrospective effect. It is seen evitoedagitet ettot popolitionemientop get (22 senatus)

that after the approval to the acceptance of resig-京最高自由性"东南,李将李克性"(1917年),由北西市,自身时间中间是自己在一个时间。 (1916年),这个中国主义中国国家

nations by the Railway Authorities from retrospective 医帕勒氏蛋黄 网络螺 中国特别 有自己的 自身的事故 医呼吸 化多层电池

date, IRCON issued an Office Order deeming the appliarea entres in them in the contract figure for the tree bears are being a being a figure.

cants to have retired from railway service from re-

trospective dates as given in the communications of her respond after a second of the first the first top of 
the railway authorities and parmanently absorbing

the applicants in IRCON in public interest from re-

trospective dates. Constitution of the Consti

的事的是就可 The reliefs sought are -3. in 3 eric last oct agradict in 1995.

in the manufacture of the control of

त्रवीरे प्रदेश हैं हुई। विक्री ते की विवास कर हुई से की दिख्य कर है ।

(1) lesue of direction to the respondents to absorb the applicants from the date of issuance of the sanction of the

## (ii) Declaration that the applicants be

一本概式有效。而是一点是有更具。 人名西西尔 古古奇诗中描述者 一个个个时间。 会对这种专辑等 在一位。

entitled to be absorbed from the

the testing the second of the first test that the second of the

date of issuance of the sanction

ising to insere the later and in indies

by the Government.

The sampanish of the Learned Tollial of

(iii) Issue of direction that the liens of Collectives opided to admeds that all administrate end

the applicants in the Railways could

estived and year abas ad bines notificates to easing

not be terminated without resignations.

vanilari ada te saddal eda eaan yen el bes sometas cos

The Learned Counsel for the applicants contenmonton entropy is the teather control of the monton of the control 
ded that by the very nature of things the exercise of

option by an employee was only an offer of his service

to be absorbed under the said undertaking in public . ೧೮೮೩ ಕರ್ಕ ಚಿತ್ರ ಕ್ಷಾತ್ರೆಯ ಅಭ್ಯಕ್ಷಿಸಿಕಾದ ಅಭ್ಯಕ್ಷ ಕ್ಷಾತ್ರೆಯ ಕ್ಷಾತ್ರೆಯ ಕ್ಷಾತ್ರೆಯ ಕ್ಷಾತ್ರೆಯ ಕ್ಷಾತ್ರೆಯ ಕ್ಷಾತ್ರೆಯ

interest. The Government cannot force retrospective rgines to samed source and of isomsque and mades dans

absorption. The applicants have every right to resile 有效表达也可以自动证券中,所在文章 海豚黄色多次的绿色沙漠 化电路基层电气 中心的 火煙 医疗证证的现在

from the offer which they had given. The Government

date, leton langued on bestica Griss dorming the applic

could not accept the offer from retrospective date

med cort enders the from the service from the service from

to the detriment of the employees.

scoopeatany dates as given in the compunicablions of

The Learned Counsel for the respondents contended 5. the rations rutherities and permanently absorbing

that IRCON was a Public Sector Undertaking and did

the applaceous in 19000 in public interest from you not come under the purview of the Tribunal. The absorp-

trospective detes. tion was to be made by IRCON and no direction as such The relief a cought era -مو سائن

could be given to IRCON to absorb the applicants from

(i) Jeans of direction to the respondents specified dates. Nor can such a direction be issued

to obsorb the applicants from the date

of leauence of the sampling of the

by the Tribunal to the effect that the applicants are entitled for absorption by IRCON from a date

Was a Just spainer atomber indicated to the same accommoderate

with a first that above pleasure mot disputed by in the land the Learned Counsel for the applicants, he contended proper right and the sent the lien of the applicants could not be termithe sens and the managed by the paidway fauthorities until they had Type to the calculated alienting IRCON. so IRCON seculd issue the order A CLESS And the course of a formation and year termined into approval from လိုနှင့် နှင့်သို့ အမျိန်နှင့်ရေး ရောက်ရေး အထွေး ရောက်ရေးမှာ မြောင်းမှာ မြောင်းမှာ မြောင်းမှာ မြောင်းမှာ မြောင် များသည် နှင့်အားများသည် ချွင်း မြောင့်မျှေသည် မြောင်းများများသည်။ ကျောင်းများသည် မြောင်းများများသည်။ eral the maile reditud edouble comes the railway authorities to the acceptance of resigmayo, indi becalling in nations or retirements of the applicants and such bluow 400 ht as assignaceptance cannotobeggiven acretrospective effect ##Didwigman is wish toothe detriment of applicantion Therefore, the - undus drestages to to Learned Counselthadeargued that his case was against weden to the control of the control of the could be a second or the cou abid of a planotabesterminated retrospectively.

to yatelous of of Arizae The Learned Counsel. for the respondents brought ance with a reamout that the applicants with a view to fulfilling

will work their personal interest and claiming enhanced pensionary

with the recommendations of the Fourth abbention of the administrative this both of userus arts and became PayseCommission kepteron achanging the date of permanent of Fublic Enterprises from time to time, stipur neswied noises to esisabsorption by IRCON though they had given in the first reversion to the parent doors ent absorption in the concerned enterprise, by the deputationists

from the Cost. service to verious public enter-

-क्षार्टें, वर्तरं ,क्षात्रस्य भागः एत्रार्थात्रर्थात्र्यं । वर्तरं । वर्षः स्टार्थाया

(23)

with a mark dinstance their clear option for absorption from a

specified date. He also said that option once ex-

to beduce to recised scould not be changed and was final. In

centralists of , side othir sconnection the quoted scule 417(13) of IREM (Vol.I)

winged ad Jon hissofiadiation - 1989) but we must say at this stage

bed year lidewitselfathat the rule is not relevant in the present

sets of and audea blaces es because that arule relates ato fixation of pay

The other rule quoted viz.2023(7) of IREM(Vol.II) is also not relevant as that relates to exercise of option for drawal of pay on deputation.

Tous one sideoliargued that the Railway Board had clarified that per-

sparts swittness nament absorption of Srailways employees in IRCON would:

edd (erors terficontinue) toube effectives from the date of completion

damings and pass alofathreesyears deputation period unless competent autho-

bisco coll river arities approval quescobtained for extension of deputa-

tionsperiod as perither existing policy. In this

anguard admediates connections they invited attention to the Ministry of

gottlitte of we Finance's Letter dated 22nd September, 1972 some

grown knagheboskoe in kextracts of which are reproduced below :-

tire of end to encisone moods the undersigned is directed to invite the
attention of the administrative Ministries/
source adsolation on the morders issued by the Bureau
of Public Enterprises from time to time, stipuissued and name to bard verification time to the parent cadre and absorption in the
concerned enterprise, by the deputationists
from the Govt. services to various public enterprises. As the Ministries are sware, the time-



limits for exercise of option have been prescribed on the basis of the decision taken at the highest level. It is, therefore, imperative that the option orders are implemented most strictly, and requests for extension of deputation beyond the prescribed limit under the orders, as a rule, turned down by the administrative Ministries."

The Railway Authorities had also by their letters calse roug bro word of throoks a most

dated 30th July, 1985 and 10th September, 1985 made

it clear to IRCON that they would be unable to agree BURE LE PARTUO CE

to the extension of deputation of railway staff. The

employees should either be absorbed permanently in

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IRCON on completion of three years deputation period ed is lique as i to endice will or some a

with IRCON against 30 per cent of core posts or returned hi byvicing friog grade eni

to their railway departments in exchange of new and the add to be delicated and terrains

> emplayees who should be deputed now for a period of nedoeste ent of investible interstate

three years only. In the letter of 10th September, bluso amposation final to agree these and

> 1985 it was also added that in case an employee was indicated aviationstrate and anch ad

not willing to get himself absorbed in IRCON from

the date of completion of three years' deputation

period, he should be repatriated to the Railways

immediately and the question of regularisation of ective du

the excess period of deputation would be taken up

suitably with the Department of Personnel.

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Learned Counsel for the respondents, therefore said

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managed was suithate the applicants, were fully aware of the fact

· [ 黄金叶 | 黄金种联合 | 在12.12 [ ] | 春春春 | 医2.22 | 表示主意基本的概念 ( ) 夏文哲学。

\* 29 17 9 12 Branger For Lettings would be absorbed on completion of depu-

salar a as abation period of three years and they had tendered "Linker Minne to Minne to Minne to Minne they had tendered "Linker Minne to 
their unconditional options for permanent absorption

profession records and contact back appropriately provided the con-

from a specified date and such dates could not be

show less insumed as a data box size . The west placed

altered. What the railway authorities did was only

secular of sident so bivon had tado allosi or desir it

to convey approval to the acceptance of the resigna-

and the expension of deputies of apithopy and ay

tions from the dates for which the options had been

ರತ್ನು ಪ್ರತಿಗಾರು. ಶಾಸ್ತ್ರ ಇದರ ಇದ್ದಾರೆಕ್ ಕರ ಇದರ ಕರ್ಮಕ್ರ ನ ಎಲ್ಲೇ ಅರಾಗಿಗಳು ನಿರ್ವಹಕ್ಕ

given. Therefore the retrospectivity was with ref-

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erence to the options of the applicants.

in the straint of a spring a few is then used (A periods of City).

10. The short point involved in this case is

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whether the letter of the railway authorities

we contract a contract to decrease that has a contract of

according approval to the acceptance of resigna-

Andrews and other to second out of the event second

tions of the applicants or their retirement could

be done from retrospective date/notwithstanding the fact

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the options given by the applicants were later

changed by them once or more than once but before

restant of thought be respiritated for the Sallways

the date of according of approval by the railway

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and Others [ O.A.No.364/86 ] in a similar case relating to another Public Sector Undertaking namely Rail India Technical and Economic Services Limited (RITES). It was observed therein that the order relating to the absorption of the petitioners would be operative in its own course from the date on which it was issued. It was purely an administrative order and could not operate retrospectively to the prejudice/detriment of the petitioner who must be deemed to have been continued on deputation seis 70 . . . with RITES till his final absorption. The Bench, therefore, held that the lien of the petitioner on his cadre post in the parent department stood terminated with effect from the date of the Presidential order and he was declared as entitled to all consequen-tial benefits in respect of salary and pension etc, if any, flouing therefromation down an MCChi of promothe Learned Counsels for the respondents said and that the present application was distinguishable as in that case willinghess was asked for for absorption ACCRIVE TO THE RITES. The exercise of the option constituted merely an offer to be considered for absorption. In these



ceses the IRCON had decided to absorb the applicants and they gave unconditional options for permanent 300 mg absorption in IRCON from air etrospective date. and dods and 12:64 Wesdos note find any difference in situation. 20200822294 The very factothate the order of the Railyay authorities avel and moves issued conveying approval to the acceptance of mainimus as resignations or retirements of the applicants showed vide itsecanathat the absorption was not automatic or else there and transmitted in the for approval to If there was need for the capproval it clearly implies that the resignation or the retirementacould have been refused also. special the according of approval was redundant. bines thereforbe seem is as to when the applicants severed their connections with the railway authorities. devices on its of approval of the mailway authorities issued it cannot applicant is a delened the presumed that the cut themselves as under from their office unless the option given by them by itself bias with brougecording to any rule meant absorption in IRCON as such. re alteralizabilitate a meaning is to be assigned to their options The state of the communication of the approval of the railway vistem bedad idental Buthorities and subsequent issue of an order by IRCON seeds of . dolidesming the applicants to have retired from reilusy



service from a retrospective date were meaningless. in fact in these cases

The option/did not constitute a complete and opera-AND TO THE REPORTED AND AND AND THE CONTRACT OF THE PROPERTY AND THE PROPE

tive termination of the link with the railways in the "Bony tord I to the well to garage

> absence of any rule of instructions to that effect. Dodawa to the track

The general principle is that in the absence of anything

to the contrary in the provisions governing the terms Module Jon wast of

> and conditions of office, an option in writing sent to the Eprilie

the competent authority can be withdrawn or altered at

any time before it becomes effective that is before 要用其 全部一次 ? 为证 对益 有有正常的的内部 正言《主读》》 正知 ? 如何的

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it effects termination of the tenure of his employment. broper of trainpoint era receiled and to thus this

Any such termination cannot/be from a retrospective date

to the detriment of applicants.

and of se to de or with the theoreth one

13. The arguments of the Learned Counsel for the respondents is that the deputation was for a specified fond ted men period and the applicants should have either reverted to the parent cadre or got absorbed and the deputation could not be extended, are also not tenable since there or repatriating were no specific orders relieving/the officers on expiry of the period of deputation. In fact, the organizations where they were deputed continued to utilise their services.

14. The law having been well-settled in the case of

និស្សសំពីស្ត្រាប់ ស្ត្រាស់ ស្ត្រាស្ត្រាស់ ស្ត្រាស់ ស្ត្រាស់ ស្ត្រាស់ ស្ត្រាស់ ស្ត្រាស់ ស្ត្រាស់ ស្ត្រាស់ ស្ត្រ ស្ត្រាស់ ស្

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J. Sharan (Supra), we direct that the lien of the

and his available of a fittle double for a contract over applicants in the parent department cannot be

treated as terminated from a date prior to the

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to the acceptance of resignation or retirement of

or true quidiry at acideo relacible le ematifrace are the applicants.

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15. The applicants will be entitled to all

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consequential retiral benefits in so far as the

so make since the representation of the thir set is the case and the makes

liabilities of the railways are concerned in regard

to such benefits. With this direction the cases

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are disposed of with no order as to costs.

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Ram Pal Singh
Member (A). 2011/92 80 Vice-Chairman (J)

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