

**In the Central Administrative Tribunal
Principal Bench: New Delhi**

OA No.3247/92

Date of decision: 26.04.1993.

Shri R.C. Jain

...Petitioner

Versus

Union of India through the
Secretary, Ministry of Railways,
Rail Bhavan, New Delhi & Another ... Respondents

Coram:-

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

For the petitioner Shri S.M. Chugh, Counsel.

For the respondents Shri P.S. Mahendru, Counsel.

Judgement (Oral)

Heard the learned counsel for both the parties. The case of the petitioner is that he had exercised an option for fixation of his pay under the Railway Service (Revised Pay) Rules, 1986 before 30.9.1988, as required under Northern Railways' instructions (copy placed at Annexure A-1). A copy of the option exercised is placed at Annexure A-2. According to this the petitioner had opted that his pay should be fixed in the revised scale from the date of next increment viz. 1.1.1987. The acknowledgement portion of the form of option does not bear any indication that the office has received the option. There is a letter at Annexure A-3 of 29.8.1988, according to which the option form of the petitioner was sent by the Loco Foreman to D.P.O., New Delhi on September, 30, 1988. The learned counsel for the petitioner referred me to the minutes of the 88 Divisional Meeting held with U.R.M.U. on 6/7.4.1992. Item 84 of the minutes deals with the case of the petitioner. The said minute reads as under:-

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"As decided by Sr.DPO/APO/Engg. has visited the office of LF/DLI and inspected his record. As per report of APO/Engg. Shri R.C. Jain retired Asstt. Supdt actually had exercised option under rule 9986 for re-fixation of pay before the last date. Hence contention of the Union has not been agreed to. The Union has already been advised vide letter No.727-E/4/449/P-4 dt.21.12.91."

2. The learned counsel submitted that according to the report of APO/Engineering the petitioner had exercised his option well before the last date. Accordingly, the petitioner's claim for fixation of his pay in the revised pay scale from 1.1.1987 is just and fair and the same is supported by the document of the respondents.

3. Shri P.S. Mahendru, learned counsel for the respondents on the other hand submitted that the Divisional Secretary, U.R.M.U. was advised by the DPO on 31.12.1991 vide letter No.727-E/4/449/P4 that:

".....after investigating the record of loco Foreman/Delhi and it has been decided that the option for refixation of pay in the revised pay scale not submitted by employee within time.

Hence his case cannot be considered.

The employee may be informed accordingly."

4. This is the letter which is referred in the h minutes of the meeting.

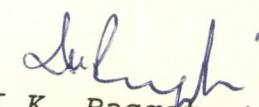
5. I have considered the matter carefully and find that the minutes of the meeting do not establish the case of the petitioner. In fact the minutes clearly

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state that the contention of the Union cannot be agreed to and that this fact has been advised to the Union by letter dated 21.12.91 (the date is not correct). In these circumstances of the case, I am not inclined to interfere with the case. The O.A. is accordingly dismissed. No costs.

San.


(I.K. Rasgotra)
Member (A)