

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

OA 1090/92

24.07.1992

SHRI SOHAN SINGH

...APPLICANT

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM :

HON'BLE SHRI J.P. SHARMA, MEMBER (J)

FOR THE APPLICANT

...SHRI SANT LAL

FOR THE RESPONDENTS

...SHRI JOG SINGH

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*

2. To be referred to the Reporter or not? *Yes*

JUDGEMENT (ORAL)  
(DELIVERED BY HON'BLE SHRI J.P.SHARMA, MEMBER (J))

The applicant since retired on 31.5.1992 as Deputy Post Master in higher selection grade II has the grievance that fixation of pay on his promotion in the higher selection grade has not been done from the date of his next increment, which was to fall due on 1.6.1990. The applicant has made several representations, but in spite of all the data and reasoning furnished by the applicant, the respondents have stated in the communications addressed to the applicant that the matter has been referred to Directorate and is under consideration. He has, therefore, filed this application for the relief that the letter dt. 9.6.1990 of CPM, New Delhi be quashed with a direction to the respondents to accept the option of the applicant for pay fixation under OM dt. 26.6.1981 and granting the applicant all the consequential

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benefits of refixation of pay and subsequent revision of pensionary benefits after his retirement. The applicant has stated that he has been promoted in the higher selection grade w.e.f. 31.3.1990. But in that promotion order, there was no mention of the fact that for fixation of pay under FR 22(c), the applicant has to give option within a period of one month from the date of receipt of the promotion order. Thus in the ignorance of the same did not apply within one month and there was a delay of 25 days when he applied on 25.5.1990 that his pay in the revised pay scale be fixed with effect from the date of his next increment falling due on 1.6.1990.

The respondents in their reply stated that the matter is under consideration and the delay occasioned in submitting the option by the applicant is under consideration for condonation.

I have heard the learned counsel for the parties at length. The learned counsel for the respondents, however, suggested that the matter be referred back to the department to dispose of the representation of the applicant after considering the matter of condonation of the period beyond one month during which the applicant applied for option.

The learned counsel for the applicant has referred to the Government of India decision No.14 under FR 22(c) Clarification 1 in the Swamy's Compilation of FRSR 1990

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Edition p-104 wherein it is mentioned that in the promotion order itself, there has to be a mention of the fact that such promotee should give option within a period of month. In the promotion order effecting promotion w.e.f. 31.3.1990 in the higher selection grade, this fact was not mentioned. It is not disputed. In view of this fact, I do not find that it is at all required to refer the matter to the department for consideration of condonation of delay in making option. Further the time is not essence in such cases because if the period of one month is rigidly accepted and a person is given a promotion and not able to join or his by other sufficient cause not coming to know of it, then naturally he has to apply subsequently when he learns about this fact. Though it is required that within a period of one month, the option should be exercised due to fiscal aspect of the matter, this direction is not mandatory. Thus the fixation of the applicant should have been done on the guidelines laid down in the Department of Personnel and Training OM dt. 26.9.1981.

The application, is therefore, disposed of with the direction to the respondents to accept the option of the applicant dt. 25.5.1990 and to refix the pay of the applicant taking into account his next date of increment dt. 1.6.1990 and give all the benefits to the applicant as are admissible to him of arrears of pay etc. and also to revise the pensionary benefits to which the applicant is entitled. The respondents to comply with the above directions within a

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period of two months from the date of receipt of a copy of this Judgement. In the circumstances, the parties shall bear their own costs.

*Jomane*  
(J.P. SHARMA) 24.7.92  
MEMBER(J)