

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 24TH DAY OF NOVEMBER, 2003

Original Application No. 01 of 1998

CIORAM:

CORAM:

HON. MR. JUSTICE S. R. SINGH, V.C.

HON. MR. D. R. TIWARI, MEMBER (A)

B. L. Yadav, aged about 37 years
Son of late Shri V. N. Yadav,
Resident of B-116, Avas Vikas
Colony, Jhansi

.. Applicant

(By Adv: Shri Rakesh verma)

Versus

1. Union of India through the Chairman, Railway Board, Rail Bhawan, new Delhi.
2. The General Manager, Central Railway, Mumbai Chhatrapati Shivaji Terminus
3. The Divisional Railway Manager (P) Central Railway, Jhansi.

.. Respondents

(By Adv: Shri Prashant Mathur)

O R D E R (Oral)

JUSTICE S. R. SINGH, V.C.

The applicant joined the service of Railways as Junior Trains Clerk w.e.f. 17.11.1980. In 1984 he was promoted to the post of Head Trains Clerk in the month of January in the pay scale of Rs 425-15-640 as it then stood prior to enforcement of the IVth Central Pay Commission Report. On 1.1.1986 the applicant was working in the capacity of Head Trains Clerk in the pay scale aforesated which was revised to Rs 1400-40-2300 w.e.f. 1.1.1986. It is not disputed that the annual increment of

the applicant was due on 1.1.1986. It appears that the applicant staked his claim for grant of increment due on 1.1.1986 in the revised scale before fixation of pay in the revised scale. The same has been rejected vide impugned order dated 16.8.1996 on the ground that the option sent by the applicant on 7.8.1996 was beyond six months period, stipulated in the circular dated 5.5.1995 (Annexure A 1) the relevant portion of which reads as under:-

“इस मंत्रालय के दिनांक 18-5-1987 के समसंबंधक पत्र के छ००००। पर उठाये गये मुद्रे के बारे में दिये गये स्पष्टीकरण को देखे जिसमें बताया गया है कि जहाँ वेतन वृद्धि 01-1-1986 को पड़ती है वहाँ संशोधन पूर्व वेतनमान में वेतनवृद्धि पहले मंजूर की जायेगी, तत्पश्चात् संशोधित वेतनमान में वेतन नियत किया जायेगा।

॥२॥ राष्ट्रीय परिषद् जे सी एम् के कर्मचारी पक्ष ने यह मांग की थी ऐसा कोई सरकारी कर्मचारी जिसकी वेतन वृद्धि 01-1-1986 को शुरू होती है तो उसका वेतन वेतनवृद्धि को ध्यान में रखे विना ही संशोधित वेतनमान में नियत किया जाना चाहिए और वेतनवृद्धि संशोधित वेतन में मंजूर की जानी चाहिए। यह मामला पिछले कुछ समय से सरकार के विचाराधीन छहवाँ रहा है। अब यह नियंत्रण लिया गया है कि ऐसे सरकारी कर्मचारी को जिसकी वेतनवृद्धि 01-1-1986 को पड़ी है उसे अपना वेतन 1-1-1986 से पुनः नियत करवाने का विकल्प निम्न प्रकार से किया जाये।

01-1-1986 की संशोधित वेतनमान में वेतन का नियमन 1-1-1986 को देय वेतनवृद्धि पर ध्यान दिये बिना किया जाये। संशोधित वेतनमान में इस प्रकार का नियतन करने के बाद वेतन वृद्धि 1-1-1986 से संशोधित वेतनमान में मंजूर की जाये।

॥३॥ उपर्युक्त विकल्प का प्रयोग सम्बन्धित कर्मचारियों द्वारा इन आदेशों के जारी होने की तारीख से 06 माह की अवधि के भीतर कर लिया जाना चाहिए। अगर कोई विकल्प नहीं आता है तो ऐसी स्थिति में यह मान लिया जायेगा कि सरकारी कर्मचारी ने अपना वेतन संशोधित पूर्व वेतनमान वेतन वृद्धि लेकर नियत करवाने का विकल्प चुना है और तत्पश्चात् वेतन का नियतन इस मंत्रालय के दिनांक 18-5-1987 के समसंबंधक पत्र के अनुसार संशोधित वेतनमान में निर्धारित कर दिया जायेगा। इस पत्र की विषय वस्तु का पर्याप्त प्रचार किया जाये।”

हस्ताग

॥ आर० सी० चौहान् ॥
कायलिय निदेशक, वेतन आयोग
रेलवे बौद्ध।

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The applicant had no doubt not submitted the option within six months period stipulated in paragraph 3 of the circular dated 5.5.1995 but it has been contended by the learned counsel appearing for the applicant that he had no knowledge of the circular afore stated which according to the averments made in the OA was not circulated amongst the staff and he submitted the option within six months from the date of knowledge of the circular. On the other hand, counsel for respondents submits that the circular was circulated on 13.9.1995 in the concerned section. The question that arises for consideration is whether the period of six months will be counted from the date of knowledge of the circular or from the date of its issuance as provided in paragraph 3 of the circular dated 5.5.1995. In the present case, in the supplementary counter affidavit it has no doubt been asserted that one Anil Kumar Verma of the same section and same post had given his option on 23.1.1996 i.e. prior to 7.8.1996. This, according to the learned counsel for the respondents, goes to show that the circular was circulated in the section where the applicant has been working. The knowledge of the circular to A.K.Verma could not be treated as knowledge by the applicant. In Raja Harish Chandra Raj Singh Vs. Dy. Land Acquisition Officer and another, AIR 1961 SC 1500, their Lordships of the Supreme Court had an occasion to construe the expression "The date of the Collector's award" used in the proviso (b) to Sec. 18(2) of the Land Acquisition Act 1894. It was held that the date of the Collector's award' means the date of knowledge of the award either communicated or known by the party whether actually or constructively. There is evidence on record that it was actually known to the applicant on 13.9.1995, the alleged date of circulation nor is there any evidence that he had the knowledge of the option given

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by Sri A.K.Verma. In S.K.Sahu Vs. Union of India & Ors OA No.17 of 1998 this Tribunal directed the respondents to consider the case of the applicant therein afresh treating that the option was received within time on the premises that the respondents had failed to pin-point the date of knowledge of the circular.

Following the aforesaid judgments, we allow the present OA and direct the respondents to treat the option given by him within the stipulated time and extend the benefit visualised by the circular dated 5.5.1995 within a period of four months from the date of receipt of this order. Parties are directed to bear their own costs.


MEMBER(A)


VICE CHAIRMAN

Dated: 24.11.2003

Uv/