

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD.

Dated : This the 10th day of May 2002.

Original Application no. 17 of 1998.

Hon'ble Mr. Justice RRK Trivedi, Vice-Chairman  
Hon'ble Mr. S. Dayal, Administrative Member.

S.K. Sahu, S/o late Shri Prem Narain,  
R/o 647-A-RB-III, Railway Colony, Rani Laxmi Nagar,  
Jhansi.

... Applicant

By Adv : Sri R. Verma

Versus

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

... Respondents

By Adv : Sri P Mathur & Sri K.P. Singh

O R D E R

Hon'ble Mr. Justice RRK Trivedi, VC.

By this OA filed under section 19 of the A.T. Act, 1985, the applicant has challenged the order dated 16.8.1996 by which option exercised by letter dated 7.8.1986 in pursuance of the Railway Board's circular dated 5.5.1995 has been rejected on the ground of delay. It appears that for giving benefit of the amended pay scales w.e.f. 1.1.1986, the Railway Board vide circular dated 5.5.1995 gave liberty to its employees to indicate their options within a period of 6 months from the date of order, that the amended pay scales may be applied to them from 1.1.1986, without noticing the date of increment which also falls on 1.1.1986. The order further

provided that on exercise of its opinion the pay fixation shall be done from 1.1.1986 according to amended pay scales. In para 3 of the order it was provided as under :-

"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 पर्व वेतनमान वेतन वृद्धि लेकर नियत करवाने का विकल्प चुना है और तत्पश्चात वेतन का नियतन इस मंत्रालय के दिनांक 18/5/1987 के समसंयुक्त पत्र के अनुसार संशोधित वेतनमान में निर्धारित कर दिया जायेगा। इस पत्र की विधय वस्तु का पर्याप्त प्रचार किया जाये।"

2. From the aforesaid para 3 it is clear that the option for aforesaid beneficial provisions was to be made within 6 months from the date of the order. It also directed that this circular shall be given vide circulation after publication. From reading of para 3 (the contention is clear that the period of six months was to be calculated from the date of knowledge. In the present case, the applicant has come with a specific averment that in his office the aforesaid circular dated 5.5.1995 was not circulated and when it was circulated, then all the persons from the office collectively approached and submitted their options on 7.8.1996. Para 11 and 12 of the OA have been denied in the counter affidavit. However, the respondents have not been able to pin point the date of knowledge of the circular to the applicant. They have also not been able to make any averment that any person from the office of the applicant had exercised this option prior to 7.8.1996. In absence of any other date<sup>controverting</sup> the date asserted by the applicant, it is difficult to accept the case of the respondents that there was vide publication and the applicant had knowledge of this

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circular. In the facts and circumstances of the case, in our opinion the benefit has been wrongly denied to the applicant and he is entitled for the relief.

3. For the reasons stated above, the OA is allowed. The respondents are directed to consider the case of the applicant afresh <sup>treating that</sup> ~~as~~ the option ~~is~~ received within time. It is further made clear that if the applicant was already given the benefit under the instruction dated 18.5.1987, he will not be entitled for this benefit. This order shall be complied with within a period of four months from the date of communication of this order.

4. There shall be no order as to costs.

  
Member (A)

  
Vice-Chairman

/pc/