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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1248 OF 2000  
ALLAHABAD THIS THE 07TH DAY OF OCTOBER, 2003

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, VICE-CHAIRMAN  
HON'BLE MR. D. K. TIWARI, MEMBER-A

Chandra Bali Misra,  
S/o Sri S.P. Misra,  
SSE(P. Way), Engg. Control,  
DRM Office, Northern Railway,  
Allahabad.

.....Applicant

(By Advocate Shri K.S. Saxena )

Versus

1. The Union of India,  
through the General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. The Divisional Railway Manager,  
Northern Railway,  
Allahabad.
3. The Divisional Personnel Officer,  
DRM Office, Northern Railway,  
Allahabad. ....Respondents

( By Advocate Shri A.C. Mishra )

O R D E R

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, VICE-CHAIRMAN

By this O.A. filed under section 19 of Administrative  
Tribunals Act 1985, the applicant has challenged the order  
dated 13.09.2000 (Annexure A-1) by which claim of the  
applicant for fixation of pay has not been accepted.

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2. The facts of the case are that the applicant was serving as Chief Permanent Way Inspector (CPWI) in the scale of Rs.2000-3200/-. He was promoted to the next higher grade of Rs.2375-3500/- with effect from 20.12.1995. The recommendations of Fifth Pay Commission become applicable with effect from 01.01.1996. It appears that the applicant, in pursuance of the Railway Board circular of 08.10.1997, elected to continue to draw pay until the date on which he earned his next or any subsequent increment in the existing scale. On the basis of this option, pay of the applicant was fixed. The Railway Board, however, issued another circular dated 26.05.1999 giving opportunity to exercise fresh options within a period of three months from the date of issue of the order i.e., 21.07.1999. The applicant claims that he exercised options in pursuance of the circular dated 26.05.1999 but the same has not been given effect and hence <sup>his pay</sup> has not been fixed accordingly., aggrieved by which he has approached this Tribunal.

3. Resisting the claim of the applicant, respondents have filed counter reply wherein it has been stated that the applicant was not entitled to exercise fresh options and his claim has been rightly rejected by order dated 13.09.2000 <sup>which has been filed</sup> impugned in this O.A./as Annexure A-1). In counter reply it has also not been stated that the applicant was promoted <sup>with</sup> with effect from 20.12.1995 and at that time his pay was Rs.2750/- in the scale of Rs.2000-3200/-. It has been further submitted that option, mentioned by the applicant under Rule 5 of Central Civil Services (Revised Pay Rule 1997), was not permissible. He has been working as CPWI/SSE in the scale of Rs.2375-3500/- on 01.01.1996 and his next date of increment in existing scale was not falling on 01.03.1996. Reference has

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been made to paragraph 8 and 9 of the counter reply.


4. We have carefully considered the case of the applicant. However, in our considered opinion, the circular dated 26.05.1999 is not applicable <sup>to</sup> the case of the applicant. Perusal of the aforesaid circular clearly shows that it applied to only those cases where options were exercised as described in Clause <sup>b</sup> of paragraph 1. The learned counsel for the applicant has not been able to show that the case of the applicant was covered by clause <sup>b</sup>. It may also be mentioned here that applicant has neither filed copy of the option exercised earlier in pursuance of the Railway Board circular dated 08.10.1997 nor he has filed copy of the options ~~allegedly~~ exercised in pursuance of the circular dated 26.05.1999. Though in paragraph 4.7 of his O.A. he has claimed that earlier options exercised would ~~be~~ cease and was not operative.

5. In the above circumstances, in our opinion, the order dated 13.09.2000 has rightly been passed wherein it has been clearly held that applicant was not entitled for exercising fresh options.

6. For the reasons stated above, we do not find any merit in this O.A. and the same is accordingly dismissed.

7. There shall be no order as to costs.

  
Member-A

  
Vice-Chairman

/Neelam/