

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 180/2010

Dated this the 29th day of March, 2011

C O R A M

**HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER
HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER**

C. Radhakrishanan
S/o. (late) R. Chami
Chief Travelling Ticket Inspector
Grade II/Sleeper
Southern Railway / Coimbatore
Residing at : "Krishna Priya"
Swathy Nagar, Kallekulangara (P.O.)
Palghat - 9.

..... Applicant

(By Advocate Mr. T.C. Govindaswamy)

Vs

1. Union of India represented by
The General Manager
Southern Railway
Headquarters Office
Park Town (P.O), Chennai.
2. The Senior Divisional Personnel Officer
Southern Railway, Palghat Division
Palghat.

.... Respondents

(By Advocate Mr. P. Haridas)

The Application having been heard on 18.02.2011, the Tribunal
ondelivered the following:

ORDER**HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER**

The applicant, a Chief Travelling Ticket Inspector in the Palghat Division of Southern Railway, is aggrieved by the refusal of the respondents to accept his option for fixation of pay consequent upon re-fixation of pay with retrospective effect, while implementing the orders of the Tribunal in O.A. 63/2007.

2. The applicant is presently working as a Chief Travelling Ticket Inspector in the pay band of Rs. 9300-34900 with grade pay of Rs. 4200/- in the Palghat Division of Southern Railway. He had earlier approached the Tribunal through O.A. 63/2007 for a declaration that he is entitled to have the pay of Rs. 350/- in the scale of Rs. 330-560 w.e.f. 16.12.1984 on par with his junior Shri K.R. Hariharan and to fix his pay at Rs. 350 in the scale of Rs. 260-400 with all consequential benefits. The Tribunal allowed the O.A and ordered the respondents to re-fix the pay notionally without arrears of pay (A-1). However, as regards denial of arrears, the applicant had filed WP(C) No. 11178 of 2009 before the High Court, which is pending. The applicant has also filed CPC No. 32 of 2009 before the Tribunal against non-fixation of pay as directed in O.A. 63/2007. The respondents filed a statement enclosing copy of order issued by the 2nd respondent (A-2) on the basis of which the Contempt Petition was closed. However, the applicant noticed he was denied an option for fixation of his pay on different dates of promotion. Therefore, he submitted a representation (A-3). As there was no action he has filed this O.A for a direction to the respondents to act upon the options exercised by him in terms of A-3 and grant consequential benefit with all arrears. The main ground urged by the applicant is that as he has been granted revision of pay with retrospective effect, he is entitled to exercise option /re-option every time when the pay is fixed under FR 22 (I)(a)(1).



3. At the outset the respondents contended that the O.A is barred by limitation as the pay fixation sought to be revised relates to year 1984. They opposed the contention of the applicant that he is entitled to be given an option whenever pay is revised and fixed under Rule FR 22(1)(a)(1). They stated that the Tribunal in O.A. 63/2007 directed the respondents to re-fix the pay of the applicant in pay scale of Rs. 260-400 as on 14/16.12.1984 w.r.t his presumptive substantive pay in the previous scale and extend consequential benefits without arrears of pay. They contended that the order cannot be treated as a fresh promotion order enabling pay fixation as per the applicant's option. They also relied on the letter No. E(P&A)II-81/PP-4 dated 13.11.1981 under which the employee has an option. They stated that the applicant has however not exercised his option in the prescribed format. There is no record to show that he had exercised his option. Revision of pay on par with his junior is not a promotion order and hence he is not entitled to exercise an option as in the case of promotion.

4. We have heard the parties and perused the documents produced before us.

5. The issue of revision of pay of the applicant started with the direction of the Tribunal in O.A. 63/2007. The operative portion of the order is extracted below:

"8 For the reasons stated as above, the OA is allowed as follows. The impugned order dated 7.7.2006 is quashed in so far as it relates to the rejection of the applicants request for re-fixation of his pay. The respondents are directed to re-fix the pay of the applicant in the pay scale of Rs. 260-400 as on 14/16.12.1984 with reference to his presumptive substantive pay in the previous scale and extend notional consequential benefits without arrears of pay to the applicant within a period of three months from the date of receipt of copy of this order. No costs."

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6. The pay of the applicant is directed to be refixed w.r.t his presumptive substantive pay in the previous scale extending notional consequential benefits. The respondents have not gone on appeal against the order. The Writ Petition filed by the applicant is only against the denial of arrears. Therefore, the order directing pay fixation portion has become final and is binding on the respondents. The Tribunal has directed to refix the pay in the scale of Rs. 260-400 as on 14/16.12.1984. Therefore, while implementing the order of the Tribunal, the respondents are bound to give an opportunity to the applicant to exercise the option available to him and ask him to submit his option in the prescribed proforma. The contention of the respondents that the applicant has not exercised option in the correct format is not tenable. It is the duty of the respondents to inform him about the fixation of his pay and seek option of the applicant. The respondents have not done so. The applicant did represent indicating his option for fixation of pay. The respondents have not accepted it.

7. In this view of the matter, the applicant is permitted to submit his option in the prescribed format and the respondents are directed to accept it and act upon it and refix the pay of the applicant following the direction of the Tribunal in O.A.63/2007. This shall be done within two months from the date of receipt of this order. No order as to costs.



DR. K.B. SURESH
JUDICIAL MEMBER

Dated 29th March, 2011



K. NOORJEHAN
ADMINISTRATIVE MEMBER

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