

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.258 of 1998.

Tuesday, this the 12th day of December, 2000.

CORAM:

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

T.N.Kumaran,
Retired Master Crafts Man,
Southern Railway,
Trivandrum Division, residing at:
Anablayithara, House No. 29/3180,
Poonithura, Ernakulam District. Applicant

(By Advocate Shri T.C.Govindaswamy)

Vs.

1. Union of India through the
General Manager,
Southern Railway,
Headquarters Office,
Park Town P.O., Madras-3.
2. The Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Trivndrum-14. Respondents


(By Advocate Shri K.V. Sachidanandan)

The application having been heard on 12.12.2000, the Tribunal
on the same day delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The applicant who retired on superannuation on 28.2.1990 came to know that the Railway Board's letter bearing RBE No.43/95 dated 5.5.95 gives him an option to have his pay fixed in the revised scale as on 1.1.1986 without taking into account the increment due on 1.1.86 and to draw the increment in the revised scale as on 1.1.86. He submitted an option on 21.3.1997 to have the pay fixed as on 1.1.1986 and refixed granting increments in the revised scale with effect from 1.1.86.



2. Finding that no action was taken by the respondents on the basis of the above option, the applicant has filed this application for a direction to the respondents to fix the applicant's pay w.e.f. 1.1.86 in the scale of Rs. 1400-2300 in the light of A-3 option submitted by the applicant and to grant the consequential benefits thereof including arrears with 18% penal interest.

3. Respondents in their reply statement contend that the applicant is not entitled to the benefits of option as he did not exercise his option within a period of six months as stipulated in A-2 order.

4. In the rejoinder the applicant stated that as he did not come across the Railway Board's letter at the appropriate time, and therefore, the respondents are not justified in denying him the monetary benefits just because he could not exercise the option in time for want of knowledge of the order.

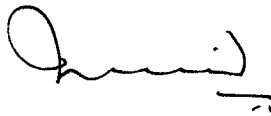
5. On a scrutiny of the materials placed on record, we are of the considered view that the respondents should have granted the applicant the benefit of refixation though his option was slightly delayed. It is seen stated in A-2 itself that wide publicity should be given to the Railway Board's letter dated 5.5.95. There is no case for the respondents that wide publicity was given to A-2 so as to make the existence of the letter known to the retired persons also. Under these circumstances considering the fact that the applicant is a retired Railway Servant, the respondents should have condoned the delay, accepted his option and refixed his pay accordingly. We make it clear that we are

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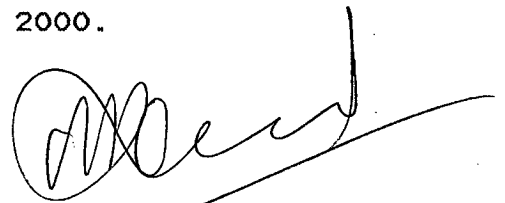
not to be understood to have laid down that time limit stipulated for submitting option has no validity or that irrespective of the delay options are to be accepted. The view taken in this case is on the basis of the special facts and circumstances of this case.

6. In the light of what is stated above, the application is allowed and the respondents are directed to accept the option (A-3) submitted by the applicant and to refix his pay w.e.f. 1.1.86 as prayed for by him and to make available to him the monetary benefits flowing therefrom within a period of three months from the date of receipt of a copy of this order. No costs.

Dated the 12th December 2000.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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List of Annexures referred to in the order:

Annexure A-3: A true copy of the letter dated 21.3.97 submitted by the applicant to the second respondent.

Annexure A-2: A true copy of the order bearing RBE.No.43/95 dated 5.5.1995 issued by the Railway Board.