

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE: 23.8.93

O.A. 340/93

K.E. Sankaran Nambiar
Thayyil House, Thruvangadi P.O.
Tellichery-670103

Applicant

vs.

1. The Union of India through the
General Manager, Southern Railway
Madras-3
2. The Executive Engineer/Construction
Southern Railway, Ernakulam

Respondents

Mr. P. Sivan Pillai

Counsel for the
applicant

Mr. Thomas Mathew Nellimoottil

Counsel for
Respondents

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THE HON'BLE MR. N. DHARMADAN JUDICIAL MEMBER

JUDGMENT

MR. N. DHARMADAN JUDICIAL MEMBER

The applicant is coming for the second time for a proper fixation of his pay taking into consideration his option which was exercised in 1982. In the earlier original application 713/90 filed by the applicant, was allowed by Annexure A-2 judgment. The operative portion is extracted below:

"In the result, the application is allowed, the impugned order at Annexure A-3 is set aside and the respondents are directed to fix the pay of the applicant in the post of Head Clerk in the scale of Rs. 425-700 w.e.f. 6.7.1973 under Rule 7 of the Railway Service (Revised Pay) Rules, 1973 with progression in the salary from month to month to pay him the arrears of salary worked out in that manner, within a period of three months from the date of communication of this order."

2. Thereafter, in pursuance of the judgment, Annexure A-1 impugned order was passed. The applicant submitted that this order does not take into consideration his right to get a higher scale w.e.f. 1.12.86. According to the applicant on the basis of the judgment, which indicates the applicant's exercise of option, ^{all the relevant aspects are} taken into consideration the applicant would have got Rs. 2150 from 1.12.1986. ~~The applicant opted~~

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to come over to the revised scale of pay w.e.f. 1973 and accordingly it was fixed at Rs. 425/- w.e.f. 9.6.73. Later on ^{the basis of} a decision of the President, the Railway servants were given a further revised option. When the applicant exercised the same it was rejected. O.A. 731/90 was filed challenging the order. It was allowed with a direction as per Annexure A-2 judgment. But it was not implemented. So a contempt petition was filed. During the pendency of the contempt petition, Annexure A-1 pay fixation order was issued. According to the applicant in Annexure A-1 applicant's pay has not been correctly fixed in accordance with the rules. Applicant's pay, as per the IVth Pay Commission's revised scale, ought to have been fixed with effect from the next increment which falls prior to 31.12.86 in accordance with extent orders of the Railway Board. This has not been done in Annexure A-1. Though the applicant approached the authorities and pointed out the irregularities he did not get any relief. Under these circumstances, he was compelled to file the second case.

3. It is a fact that the applicant was not given the benefit of option as indicated in Ext. R-1 for correct fixation of his pay from 1.12.86 in terms of Annexure A-2 judgment. According to him if the pay had been correctly fixed in 1973 itself there would not have been any disadvantage or mistake later.

4. In the course of the arguments, the learned counsel for the applicant submitted that the applicant would be satisfied if he is given an opportunity to file a detailed representation before the first respondent for bringing to his notice the irregularity in the fixation made by the Railway after Annexure A-2 judgment and the findings thereof. The learned counsel for respondents did not raise


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any objection in accepting the suggestion at the bar.

5. Accordingly, having regard to the submissions, I direct the applicant to file a detailed representation indicating his grievance and the right to get a pay of Rs. 2150/- w.e.f. 1.12.86 taking into consideration his right to submit an option in terms of ~~Ext.~~ R-1. The said representation shall be filed within two weeks from the date of receipt of the copy of this judgment. If such a representation is received by the first respondent, he shall consider the claim of the applicant in the light of the observations and findings in Annexure A-1 judgment and also ~~Ext.~~ R-1. In case it is necessary to give further option by the applicant in terms of Annexure R-1, that opportunity may also be given to him. I make it clear that a decision in this behalf, ^{Considering} on the representation shall be taken by the first respondent uninfluenced by the statement contained in Annexure A-1, within a period of four months from the date of receipt of the representation.

6. The application is disposed of as above.

7. There shall be no order as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER
23.8.93

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List of Annexures

1. Annexure A-1 : Impugned order dated 9.11.92
2. Annexure A-2 : Judgment on O.A. 731/90
3. ~~Ext.~~ R-1 : Letter dated 15.1.87