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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6  
PRESCOT ROAD, MUMBAI-1

CAMP: PANAJIM, GOA  
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O.A. No. 541/96

Dated : FRIDAY THE 11th APRIL, 1997

Coram : Hon. Shri B.S. Hegde, Member(J)  
Hon. Shri P.P. Srivastava, Member(A)

T.K. Ayyappan,  
Senior Auditor  
Resident Audit Office  
Mormugao Port Trust  
Mormugao, Goa  
(By Adv. Mr. G.Vijaychandran) ..Applicant

V/s.

1. Union of India  
through Secretary,  
Ministry of Finance  
North Block, New Delhi
2. Principal Director of Audit  
(Central), Madhu Industrial  
Estate, P.B. Marg, Worli  
Bombay 13
3. Principal Accountant General  
(Audit) 1, Maharashtra,  
CGO 101 Maharshi Karve Marg,  
Bombay 400020
4. Shri Loknath  
through Principal Accountant  
General (Audit) 1, Maharashtra,  
CGO 101, Maharshi Karve Marg,  
Bombay 400020

(Respondents 1 to 3 by Adv.  
Mr. N.S.Krishna, Counsel) ..Respondents

O R D E R  
(Per: B.S.Hegde, Member(J))

Heard Mr. G. Vijayachandran, Counsel for the  
applicant and Mr. N.S. Krishna, Counsel for the  
Respondents.

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2. The only point for consideration here is whether the applicant's pay is required to be stepped up vis-a-vis Loknath, Respondent No.4 who has been appointed subsequent to the applicant and is admittedly junior to the applicant. The contention of the respondents is that though the applicant has been given sufficient opportunity to exercise option he did not exercise the option on earlier three occasions and in the last opportunity which was given in consultation with the Finance Ministry to all those who had not opted were asked to opt for pay fixation by 1.12.1988 vide U.O. dated 24.10.88. It is an admitted fact, that the applicant did not send his option. He contends by saying that the said option U.O. was received in the office after the last date for giving option was over and this fact is evident from the respondent's letter dated 21.9.90. Therefore, even if he had opted for revised pay scale it would not have made any difference as the last date was already over.

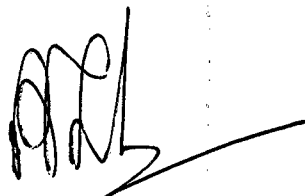
3. It is not disputed by the respondents that persons junior to the applicant ie., Loknath and Kum. Karande have been drawing more pay than the applicant by virtue of option to pay fixation from 1984 and 1988 respectively. Since the applicant did not opt for the revised pay scale, the applicant will not get any advantage of pay fixation. However, the fact remains that the loss to the applicant is recurring and the cause of action arises each time the applicant draws his salary. In the facts and circumstances of the case, taking into consideration the Hon'ble Supreme Court judgment in M.R. GUPTA Vs.


UNION OF INDIA we are disposing of this O.A. with the

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.3.

direction to the respondents that the applicant's pay should be fixed vis-a-vis his junior Loknath, Respondent No.4, from 1.12.1988. The applicant would be entitled to arrears, of pay, due to pay fixation, one year prior to the filing of the O.A. i.e., from November 1994, <sup>Order be complied with</sup> within four months from the date of receipt of a copy of this order. No order as to costs.

  
(P.P.Srivastava)  
Member(A)

  
(B.S.Hegde)  
Member(J)

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