

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
-----

O.A. NO: 459/92 199  
T.A. NO:

DATE OF DECISION 16.9.92

Shri N.M. Sangode Petitioner

Shri S. Narayan Iyer Advocate for the Petitioners

Versus

Union of India and ors. Respondent


Shri R. Darda Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. M.Y. PRIOLKAR, MEMBER (A)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
  2. To be referred to the Reporter or not ?
  3. Whether their Lordships wish to see the fair copy of the Judgement ?
  4. Whether it needs to be circulated to other Benches of the Tribunal ?
- } No

  
(M.Y. PRIOLKAR )  
M/A

mbm\*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH  
CAMP AT NAGPUR

O.A.NO.459/92

Shri N.M.Sangade,  
Regional Controller of Mines,  
in the Indian Bureau of Mines  
Government of India, Min. of  
Steel and Mines, Dept. of  
Mines, in the Indian Bhavan  
civil Lines, Nagpur-440001,  
and resident of Plot No.50 B  
Near Mata Mandir, Gokulpeth,  
Nagpur-440010.

.... Applicant

V/s

1. The Union of India,  
and two others

.... Respondents

CORAM : HON'BLE SHRI M.Y.PRIOLKAR, Member (A)

Appearance :

Shri S.Harihara Iyer,  
Adv. for the applicant

Shri Ramesh Darda, Adv.  
for the respondents.

ORAL JUDGEMENT

DATED: 16.9.1992

(PER : M.Y.PRIOLKAR, M/A)

The applicant, who is an officer of Indian Bureau of Mines under the Ministry of Steel and Mines, opted for pay fixation in the revised pay scale after implementation of 4th Pay Commission's recommendations with effect from 1.1.1986. Subsequently, Ministry of Finance by its O.M. dated 27.5.1988 granted another chance to the government employees to give their option for revised pay scale on the date of their increment after 1.1.1986. Such revised option was to be exercised latest by 31.8.1988. The grievance of the applicant is that the contents of this O.M. of the Ministry of Finance

.2..

were never communicated to the applicant and he could not therefore submit in time his revised option in terms of the said O.M. After he became aware of the contents of the O.M., he submitted his revised option, but the same was rejected on the ground that the option was not submitted within the prescribed time limit.

2. Learned counsel for the applicant argued that at the relevant time the applicant was serving as Regional Controller of Mines at Margao-Goa and the Ministry of Finance O.M. dated 27.5.1988 was never received in that office. The applicant is stated to have come to know about the existence of such revised option only from the Dy. Controller of Accounts of the Ministry of Steel and Mines when he had visited Goa for internal audit of <sup>the applicant's</sup> his office and, subsequently, at the request of the applicant, the Dy. Controller of Accounts sent a copy of this O.M. dated 27.5.1988 to the applicant under his D.O. letter dated 8.2.1989. Immediately, thereafter, the applicant submitted a fresh option for fixing of his pay in the revised pay scale with effect from 1.12.1986 as permissible under this O.M. This revised option has not, however, been accepted by the Department of Mines without giving any reasons.

3. Apparently, the O.M. dated 27.5.1988 of the Ministry of Finance was sent only by ordinary post by the Head Office of Indian Bureau of Mines, Nagpur

to the Regional Office at Margao-Goa. The Administrative officer

/of Margao office has certified that this O.M. of Ministry of Finance was never received at Margao-Goa.

It appears that no other official from the Regional Office at Margao-Goa has also exercised the revised option in terms of O.M. dated 27.5.1988. Admittedly, this communication regarding revised option was never received at Goa in the ~~department and the Head Office of the~~ applicant's Office or by the applicant and the head office of the Indian Bureau of Mines, Nagpur had accordingly recommended to the parent Ministry, namely the Ministry of Mines, the acceptance of the revised option furnished belatedly by the applicant. The Ministry however, has not thought fit to accept the revised option, but has not given any reason for its decision.

4. In the above facts and circumstances of this case, the conclusion is irresistible that since the applicant was not communicated the contents of the Finance Ministry's O.M. dated 27.5.1988 about the fresh option and he had submitted his revised option as soon as he had become aware of the availability of such revised option, it is only fair that the revised option should have been accepted by the respondents although it was received after the prescribed time limit. There is nothing on records to suggest that the applicant had become aware of the contents of this O.M. dated 27.5.1988 at any time earlier to the date of receipt of a copy sent to him by the Dy. Controller of Accounts on the basis of which he had submitted his revised option on 16.2.1989.

The respondents are accordingly directed to accept the revised option submitted by the applicant in relaxation of the time limit stipulated in the Ministry of Finance's O.M. dated 27.5.1988 and regulate the pay and allowances accordingly of the applicant in the revised scale from the date indicated in his revised option.

5. This application is disposed of finally with the above direction with no orders as to costs.

  
(M.Y. PRIOLKAR)  
M/A

srl