

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH  
JAIPUR.

O.A.No.806/92

Dt. of order: 21.1.1994

A.P.Agrawal

: Applicant

Vs.

Union of India & Ors. : Respondents

Mr.J.K.Kaushik : Counsel for the applicant

Mr.Praveen Balwada : Counsel for respondents

CORAM:

Hon'ble Mr.Gopal Krishna, Member(Judl.)

Hon'ble Mr.O.P.Sharma, Member(Adm.).

PER HON'BLE MR.O.P.SHARMA, MEMBER(ADM.).

Applicant A.P.Agarwal, has filed this application under Sec.19 of the Administrative Tribunals Act, 1985, praying that the order dated 5.10.90 (Annex.A-1) issued by the Chief Engineer, Southern Command, respondent No.3, rejecting the applicant's option for revised scale of pay may be quashed. He has sought a further direction that the respondents may be directed to accept the applicant's option dated 5.8.89 (Annex.A-4) and allow him all consequential benefits including arrears of difference of pay as a result of refixation of pay after acceptance of the option with reasonable interest.

2. The applicant was working as Superintendent Gr.I in the office of MES, Chief Engineer Jaipur Zone. After the scales of pay were revised consequent upon the recommendations of the Fourth Pay Commission, the applicant was given an option to switch-over to the revised pay scale. He was to exercise his option by 31.8.1988. He however, exercised the option on 5.8.89. The respondents No.3, therefore, declined to accept that option as valid and consequently refused to grant the benefit of revision of pay in terms of the said option. The case of the applicant is that there was a delay in communication of the O.M. under which the option was sought and hence there was no delay on his part in submitting his option.

3. The respondents in their reply have stated that they had exhibited the contents of the relevant O.M. on the Notice Board for information of the staff. As per the notice displayed on the notice Board, the staff were required to exercise their option on or before 31.8.1988, whereas the applicant exercised his option only on 5.8.89. Since the option exercised were late it was not accepted.

4. We have heard the learned counsel for the parties. The only reason given by the respondents for not accepting the option exercised by the applicant is that the option was exercised late. The communication of the letter calling for the option was displayed on the Notice Board. Normally it is expected that all such important communications having a vital bearing on the emoluments of a government servant should be communicated to them and their signatures obtained in token of their having seen or received such communication. A mere display of such communication on the Notice Board in the circumstances cannot be considered to be a proper mode of communication to a government servant. Annexure-A3 dated 7.7.89 is a communication by which copy each of the Ministry of Finance's O.M. dated 27.5.88 and Chief Engineer, Southern Command, Pune's letter dated 14.7.88 was circulated to all Sections. Therefore, in fact the relevant communication was actually circulated by the respondents only in July 89. Therefore, if the applicant furnished his option in Aug. 89, there was no delay in doing so. In the circumstances of the case, therefore, we hold that actually there was no delay on the part of the applicant in furnishing his option.

5. We, therefore, direct the respondents to accept the option of the applicant and take necessary action thereon. The difference in the emoluments payable to the applicant as a consequence of exercise of the option should be paid

to him within a period of 6 months from the date of receipt of a copy of this order.

6. The O.A. is allowed accordingly with no order as to costs.

(O.P.Sharma)  
Member(A).

G.K.  
(Gopal Krishna)  
Member(J).