

CENTRAL ADMINISTRATIVE TRIBUNAL? JABALPUR BENCH  
CIRCUIT CAMP : INDORE

Original Application No.629 of 2000

Indore, this the 12th day of April, 2004

Hon'ble Shri M.P.Singh - Vice Chairman  
Hon'ble Shri Madan Mohan - Judicial Member

Jashraj S/o Mohanlal Upadhyaya,  
aged 58 years, Sharma Builders,  
Free Ganj, Ratlam (M.P.)

- APPLICANT

(By Advocate - Shri A.N.Bhatt)

Versus

Union of India & others represented by

1. General Manager, Western Railway,  
Churchgate, Mumbai.

2. Divisional Rail Manager, W.Rly., Ratlam - RESPONDENTS

(By Advocate- Shri Y.I.Mehta, Sr.Advocate assisted by  
Shri H.Y.Mehta, Advocate)

ORDER (Oral)

By M.P.Singh, Vice Chairman -

By filing this Original Application, the applicant has claimed the following main reliefs -

- 1. (a)The incorrect pay fixation done by the respondents may kindly be quashed.
- (b)The respondents may kindly be directed to revise correct pay fixation.
- (c)The respondents may kindly be directed that the old option, which is adversely affecting the emoluments and pensionary benefits, should not be taken into account while fixing the pay on promotion.
- (d)The due increment of 1999 may kindly be ordered to grant.
- (e)All the consequential benefits settlement dues and pensionary benefits be revised and paid with interest".

2. The brief facts of the case are that the applicant was working as Chief Loco Instructor. He has retired from service on 31.7.1999. The applicant had given an option to fix his pay in the old pay scale i.e.before 1.1.1996. The respondents on the basis of his option have revised his pay after his retirement vide their order dated 14.9.1999 and

also they have again revised the pay vide order dated 29.12.1999.

3. The contention of the learned counsel for the applicant is that the Railway Board vide their R.B.E.No.112/99 (No.E(P&A)II-97/PP-20 dated 26.5.1999 has clearly directed that "the employees promoted after 1.1.1995 till the date of issue of these orders and whose date of next increment in the lower posts falls on or after 1.1.1996 may be allowed another option to get their pay fixed in the promoted post under Rule 1313(F.R.22(a)(1)/R-II/1987 edition either from the date of promotion or from the date of next increment in the lower post falling on or after 1.1.1996". The learned counsel has contended that the respondents have not taken into consideration the aforesaid instructions of the Railway Board and have also not given opportunity of another option as required under the aforesaid instructions dated 26.5.1999. The applicant has retired from service on 31.7.1999.

3.1 Another grievance of the applicant is that the respondents have not given him an opportunity of hearing and in his absence, they have revised his pay and consequent retiral benefits after his retirement.

4. On the other hand the learned counsel for the respondents has stated that the applicant has given his option only after 1.1.1996 (Annexure-R-1) and not before 1.1.1996. According to him, once the applicant has given his option for fixation of his pay, that option is considered as final in terms of Railway Board's instructions dated 13.11.1981 (Annexure-R-II), and the applicant does not get another opportunity to give his second option for fixing his pay on promotion.

5. Heard the rival contentions of the parties. We deem it appropriate that the ends of justice will be met if the applicant is directed to give a fresh detailed representation to the respondents bringing to the notice of the DRM, W.Rly,

 Ratlam, respondent no.2 the contents of the letter dated

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26.5.1999 within a period of four weeks from the date of receipt of a copy of this order. We do so accordingly. If he complies with this direction, the respondent no.2 is directed to take a decision on his representation regarding his second option within a period of three months from the date of receipt of a copy of his representation and if the applicant is found entitled for any benefits, he should be granted all such benefits flowing from the letter dated 26.5.1999. The respondents are further directed, <sup>that</sup> if need be, a personal hearing ~~may~~ be given to the applicant into the matter, before they take a final decision.

6. In the result, the OA is disposed of in the above terms. No costs.

  
(Madan Mohan)  
Judicial Member

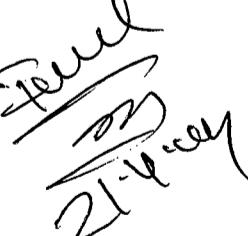
  
(M.P. Singh)  
Vice Chairman

rkv.

पूछांकन सं अंग्रेजी.....  
पुस्तिविविध अंग्रेजी विभाग  
(1) राजिय, राज्य विभाग विभाग, राज्य विभाग  
(2) आंदोलक विभाग, विभाग  
(3) राज्य विभाग  
(4) राज्य विभाग, राज्य विभाग  
सूचना एवं अधिकार विभाग  
लालकुरु, दि.....

A. N. Bhattacharya  
Y. P. Maitra

  
उप सचिव

  
Y. P. Maitra  
21-4-99