

Central Administrative Tribunal  
Principal Bench

**OA No. 1924/2014**

New Delhi this the 15<sup>th</sup> day of September, 2017

**Hon'ble Mr. V. Ajay Kumar, Member (J)**  
**Hon'ble Smt. Nita Chowdhury, Member (A)**

Pradeep Kant Kaushik, Age about 57 years,  
S/o Late Sh. HC Sharma,  
Working as Reservation Supervisor  
Northern Railway,  
Computer Reservation Centre, Delhi Jn.  
R/o H.No. 190, Bara Thakur Dwara,  
Shahdara, Delhi-110032

- Applicant

(By Advocate: Sh. Gaya Prasad)

Versus

Through Union of India

1. The General Manager,  
Northern Railway,  
Head Quarter Office,  
Baroda House, New Delhi-110055
2. Chief Personnel Officer,  
Northern Railway,  
Head Quarter Office,  
Baroda House, New Delhi-110055
3. Senior Personnel Office (T&C)  
Northern Railway,  
Head Quarter Office,  
Baroda House, New Delhi-110055

- Respondents

**ORDER (ORAL)**

**By Hon'ble Mr. V. Ajay Kumar, Member (J):**

Heard.

2. The applicant, who is presently working as Enquiry-Cum-Reservation Supervisor (ERS) with the respondents, has filed the present OA seeking to quash and set-aside the order dated 30.08.2012 (Annexure A-1) of the respondents,

whereunder they have rejected the claim of the applicant for fixation of pay on his promotion as ERS as per his option dated 16.09.2008.

3. It is the specific case of the applicant that he was promoted as ERS, vide order dated 11.09.2008 (Annexure A-2). In terms of the said order and as per the rules, the applicant has submitted his option, vide his representation dated 16.09.2008 (Annexure A-3) and the said representation was forwarded to the CRS/KKDM vide letter dated 17.09.2008 (Annexure A-4) for onward submission to concerned authorities of the respondents for further necessary action. However, the respondents on 30.08.2012 informed that the applicant's request has not been acceded to on the ground that he has not submitted his option within a month from the date of receipt of his promotion order and hence the OA.

4. It is not in dispute that the applicant was promoted as ERS, along with 40 others vide Annexure A-2 dated 11.09.2008. It is also not in dispute that the persons who were promoted under the said order, in case, desires to fix their pay from the date of next increment in the grade of Rs.5000-8000/-, they can exercise such option within one month from the date of receipt of issue of notice in terms of instructions contained in PS No. 7937.

5. The only dispute is that whether the applicant submitted his option within the permissible time limit or not and if submitted whether the said option was forwarded to the concerned authority.

6. The respondents vide their counter categorically stated that out of the 41 persons, including the applicant, who were promoted as ERS vide order dated 11.09.2008 (Annexure A-2), the CCM/IT (under which the applicant was working) on the relevant point of time, vide their letter No. NDCR/E-4/Promotion/08 dated 30.09.2008 sent the options of only 11 persons seeking fixation of their pay from the next date of increment in the grade of Rs.5000-8000/-, wherein the applicant's option was not there. It is further stated that the alleged option dated 16.09.2008 of the applicant was not received at their head office along with option of the aforesaid 11 employees, hence, the pay of the applicant was not refixed alongwith the said 11 employees.

7. The respondents vide their counter at para 8 stated as under:-

"8. That the Department made query to the CRS KKDM about the option dated 16.09.2008 of the applicant. In reply of that query the CRS NR has clarified that the application of the applicant was duly forwarded by CRS/KKDM to CRS/DLI on 17.09.2008 but the same was forwarded to HQ on 25.04.2012. It was also stated that during the period of 2008 Ms. Anita Agarwal was working as CRS/DLI who can better explain on which date the application of applicant was sent to HQ Office as not such letter either addressed to IRCA or HQ is available in the personal life of the applicant

maintained in CRS Office Delhi. It was also pointed in the clarification that the applicant did not issue any reminder of his application dated 17.09.2008 and kept mum for four years, the applicant submitted a reminder dated 16.04.2012 which was forwarded to HQ officer without any delay.”

8. The aforesaid averments of the respondents clearly support the case of the applicant that he, in fact, submitted his option dated 16.09.2008 to the CRS/KKDM, under which he was working at the relevant point of time and the said option was forwarded by the CRS/KKDM to CRS/Delhi on 17.09.2008 but the same was forwarded to their headquarters on 25.04.2012, that means there was no lapse on the part of the applicant and whereas the CRS/DLI was responsible for non-forwarding the option of the applicant within the prescribed time and hence for the mistake of the respondents themselves, the applicant cannot be put to loss.

9. The further submission of the respondents that since the headquarters office of the respondents received the option of the applicant only on 20.04.2012, i.e., a gap of about four years, and the said delay cannot be condoned by them is untenable and unacceptable. Once it is admitted that the applicant submitted his option within the prescribed time, the question of delay does not arise at all.

10. In these circumstances and for the aforesaid reasons, the OA is allowed and the impugned order (Annexure A-1) is quashed and the respondents are directed to fix the pay of

the applicant as per his option dated 16.09.2008 with all consequential benefits. However, the arrears, if any, shall be payable from the date of filing of the OA. This exercise shall be completed by the respondents within 90 days from the date of receipt of a copy of this order. No costs.

**(Nita Chowdhury)**  
Member (A)

**(V. Ajay Kumar)**  
Member (J)

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