

Reserved
(On 28.02.2019)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the **05th** day of **March** 2019

Original Application No 330/00748 of 2014

Hon'ble Mr. Justice Bharat Bhushan, Member – J

Hon'ble Ms. Ajanta Dayalan, Member – A

Jagroop Singh, S/o Late Ram Khilawan Singh, R/o Arsh Nagar (Dhussa),
Post – Pipal Gaon, District – Allahabad.

. . .Applicant

By Adv: Sri O.P. Gupta

V E R S U S

1. Union of India through General Manager, N.C.R., Allahabad.
2. Divisional Commercial Officer, Allahabad Division, N.C.R., Allahabad.
3. Divisional Railway Manager, Allahabad Division, N.C.R., Allahabad.

. . . Respondents

By Adv: Ms. Shruti Malviya

ORDER

By Hon'ble Ms. Ajanta Dayalan, Member – A

The present OA has been filed by the applicant Jagroop Singh seeking re fixation of his pay on his promotion as Junior Engineer Grade I after giving him one increment. The applicant has also sought direction to the respondents to further re fix his pay w.e.f. 01.01.2006 after giving him one more increment in the light of Ministry of Railway's order dated 23.03.2012. He has also sought re-calculation of his pension and other retiral dues after aforesaid re fixation and payment of arrears.

2. Learned counsel for the applicant stated that the applicant while working as Junior Engineer Grade II in North Central Railway, Allahabad was promoted as Junior Engineer Grade I w.e.f. 18.04.2002. Prior to his promotion, his date of annual increment was in the month of October each year. After his promotion in the year 2002, his pay should have been fixed

in the higher grade after giving him one increment on the date of promotion. But his pay was fixed without grant of such increment and the benefit of increment was allowed to him subsequently only in October 2002. Learned counsel for the applicant quoted FR 22 (1) (a) (i) and Railway Rule 2018 B (R-II), in support of his contentions and argued that this rule was not followed in his case.

3. Learned counsel for the applicant further pleaded that the applicant never exercised his option for fixation of his pay after getting benefit of increment due in the month of October 2002. In fact, he requested the authorities again and again for correct fixation of pay. But wrong fixation is still continuing and the applicant is suffering financial loss continuously since then.

4. Learned counsel for the applicant further brought our attention to Ministry of Railways order dated 23.03.2012 whereby in relaxation to the Railway Revised Pay Rules 2008, annual increment to railway employees getting their annual increment between February and June 2006 was preponed to 01.01.2006 itself as a onetime measure and next increment was to be granted on 01.07.2006. The learned counsel for the applicant pleaded that once the pay of the applicant is fixed after grant of one increment in April 2002 itself i.e. the month of his promotion – further annual increment would become due in April every year. Learned counsel for the applicant argued that in that case, he would be entitled to get his date of increment preponed to 01.01.2006 as a one time measure. Consequently, he would get one additional increment on 01.07.2006 as per the said order dated 23.03.2012.

5. Learned counsel for the applicant further stated that though the applicant has been making representations since 2002, no fruitful result has been achieved and hence, this OA.

6. Learned counsel for the respondents has contested the claim of the applicant. She stated that it is not correct to say that the applicant did not exercise any option for fixation of his pay under FR 22 with effect from the date of his next increment i.e. from October 2002, and not from April 2002. She stated that though she is unable to produce the option exercised by the applicant, the entries in the service book clearly indicate that his fixation of pay on his promotion in 2002 was based on his own option. In this connection, she relied upon the extract of service book annexed as Annexure CR-1 to the counter reply. She stated that entries in the service book are to be considered authentic in absence of any specific and unusual circumstances. Learned counsel for the respondents further stated that in case the applicant was aggrieved, he could have moved this Tribunal much earlier to 2014 as his cause of action arose way back in 2002 itself. The delay of over 10 years in moving the OA, therefore, is not justified and throws doubt on the genuineness of the statement made by the applicant that he never exercised option regarding fixation of pay on his promotion. She also stated that even though number of representations have been quoted in the OA, these representations have not been annexed alongwith OA and only last representation dated 10.10.2013 has been annexed. She therefore, concluded that the claim of the applicant is devoid of merit and needs to be dismissed.

7. We have heard learned counsel for both the parties and have gone through the pleadings. We have given consideration to the matter.

8. We observe that though the respondents have not been able to produce the option exercised by the applicant, they have produced extract of service book at annexure CR 1 to the counter reply. These extracts indicate that on 18.04.2002 on promotion, his pay was fixed “विकल्प के अनुसार निम्नवत निर्धारित किया गया”. We also observe that in absence of

any proof showing doubt on entries in the service book, entries in the service book are to be treated as final. We also observe that in this case, no such proof – what to talk of substantive proof, has been provided by the applicant. Hence, this Tribunal has no reason to doubt the entries in the service book. We also observe that from 2002 onwards, the applicant was getting his increment in October every year and was aware of this. Despite this, he did not approach this Tribunal earlier to 2014 i.e. almost 11 years after original cause of action.

9. We also observe that though the applicant's side has quoted as many as 15 representations and reminders to the respondents, none of these representation / reminder has been annexed in the OA except the last one dated 10.10.2013 which is at annexure A-3 to the OA. Even this representation does not talk of any earlier representations made by the applicant and hence we have no reason to believe that these earlier representations were, in fact, made by the applicant.

10. We also observe that option once exercised is final. Comparative position with regard to availing one option or another option may change from time to time. However, this cannot be allowed as a ground for change of option.

11. In view of all the above, we find no merit in the OA and the OA is accordingly dismissed. No costs.

(Ajanta Dayalan)
Member – A

(Justice Bharat Bhushan)
Member – J

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