

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00078/2018

Date of Order: 17.01.2020

C O R A M
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Bijoy Kumar, son of Late Baijnath Prasad, resident of Ward No. 15, Goal Bagicha, Gabra, P.S.- Sadar, District- Gaya- 823002.

.... Applicant.

By Advocate: - Mr. S.K. Bariar

-Versus-

1. The Union of India through the Secretary, Ministry of Labour and Employment, Jaisalmer House, 26, Man Singh Road, New Delhi-110001.
2. The Under Secretary, Ministry of Labour and Employment, Jaisalmer House, 26, Man Singh Road, New Delhi-110001.
3. The Welfare Commissioner, Ministry of Labour and Employment, Labour Welfare Organization, Shram Bhawan, Doranda, Ranchi-834002.
4. The Dy. Welfare Commissioner, Ministry of Labour and Employment, Labour Welfare Organization, Karma, Jhumri Telaiya, Koderma- 825409.
5. The Welfare Commissioner, Ministry of Labour and Employment, Labour Welfare Organization, House No. 180/A/B, 2nd Floor, Road No. 4A, Patliputra Colony, Patna, Bihar- 800013.

.... Respondents.

By Advocate: - Shri A.K. Singh

ORDER
[ORAL]

Dinesh Sharma, A.M:- In the instant OA, the applicant has prayed for directing the respondents to grant him the leave encashment money, group insurance money and medical allowance of Rs. 5000/- per month along with 12% interest for the delay in the payment of these sums. The applicant has stated that without any reason his complete retiral dues,



those mentioned above, have not been released to him. In spite of his various requests under RTI no information has been divulged to him with respect to the non-payment of these dues. The applicant has not been released the above-mentioned dues though more than 3 years have passed. The applicant has also mentioned that the respondents have not given him any notice for recovery due to error of fixing pay scale/grade pay as the applicant had never given any wrong information. Thus, withholding of leave encashment money and group insurance money is against the law of natural justice and making recovery due to error in fixing of pay scale by them is against the law settled by the Hon'ble Supreme Court.



2. A written statement has been filed denying the claim of the applicant. In the WS it is indicated that recovery has been made of excess payment of grade pay Rs. 4800/- (instead of grade pay of Rs. 5400/-). After recovery of the excess payment, e-payment has been made of the remaining dues except his medical claim through bill No. 252 dated 01.08.2018 and bill no. 890 dated 01.08.2018.

3. I have gone through the pleadings and heard the arguments. The learned counsel for the applicant stated that no recovery can be made following the law laid down in State of Punjab Vs. Rafiq Masih's case of any amount which are paid, even by mistake, to a Group C and D employee and when it relates to a period which is more than 5 years before the recovery is made. In the present case, the employee is a

Pharmacist who belongs to Group C. The recovery has been made in the year 2018 and it relates to a period from the year 2009 till his date of retirement which is in the year 2014. These facts are not denied by the respondents and there is apparently no error on the part of the applicant for which he can be held responsible for this overpayment. The recovery in this case on account of any alleged excess payment is, therefore, clearly in violation of the dictum of the Hon'ble Apex Court in the Rafiq Masih's case. It is also very unfortunate that the employee who was suffering from various ailments and who kept on running to various offices to get this information was not even provided with the information regarding why his complete retiral dues were not released. I, therefore, dispose of this OA with the direction to the respondents to immediately refund all amounts which have been deducted by way of recovery of excess payment made by the respondents from the retiral dues of the applicant within three months of receipt of this order. No order as to costs.

[Dinesh Sharma]
Administrative Member

Srk.

