

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00680/2019**

Date of Order: 16.01.2020

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

Bharti Raman Kumar Singh aged about 61 years, S/o Late Jai Bahadur Singh, Resident of Simphony Apartment, C- 305, Mohalla- Shivpuri, Road No. 2, Patna- 800023.

.... **Applicant.**



By Advocate: - Mr. N.N. Singh

-Versus-

1. The Union of India through the General Manager, East Central Railway, Hajipur- 844101.
2. The General Manager, Personnel, EC Railway, Hajipur- 844101.
3. The Divisional Manager, Rly., Danapur Div. Danapur, Patna- 80012.
4. The Senior Divisional Finance Manager, Rly. Danapur- 800012.

.... **Respondents.**

By Advocate: - Shri Ajoy Kumar

**O R D E R
[ORAL]**

Dinesh Sharma, A.M:- In the instant OA, the applicant has prayed for quashing and setting aside the order of the respondents dated 31.12.2018 by which, through a cryptic entry of "O.P. 2,38,985". This amount has been deducted from his retiral benefits. He has also prayed for refund of this recovered amount with 18% interest. The applicant has alleged that even if any overpayment is made it was for no fault of his. The applicant retired on 31.12.2018 and overpayment is allegedly made

over a period of 36 years since his pay on 08.04.1982 was allegedly wrongly fixed at Rs. 338/- in place of Rs. 330/- . The main ground for claiming the refund is the decision of the Hon'ble Apex Court in the State of Punjab Vs. Rafiq Masih (White washer's case) according to which recovery is impossible in case of employees belonging to Group C and D where overpayment has been made in excess of 5 years before order of recovery is issued and hence, this OA.



2. A written statement has been filed in which they have denied the claim of the applicant. The respondents have accepted that the applicant's initial pay was wrongly fixed on 08.04.1982 at Rs. 338/- instead of Rs. 330/-. This mistake was detected at the time of his retirement and the administration corrected the mistake. The WS also alleges that the applicant was aware of the wrong fixation. The written statement quotes the decision of the Hon'ble Supreme Court in case of BSNL Vs. Ajit Kumar Kar/2008 11 SCC 591 to support their contention that bonafide mistake does not confer any right on any party and can be corrected.

3. I have gone through the pleadings and heard the arguments. The law in such matters has been well settled and the decision of the Hon'ble Supreme Court in Rafiq Maish's case prohibits recovery of even wrongly made payments in the case of Group C and D employees when such wrong payments relates to a period more than 5 years old. In the present case, the overpayment has been made over a period of 36 years

and such mistake on the part of the employer cannot be corrected by recovering any such alleged overpayment from the retirement dues. Hence, the OA is disposed of with the direction to the respondents not to deduct any amount from the retirement benefits of the applicant on account of alleged overpayment mentioned above. If any recovery has been made on this account, the same should be immediately refunded. A compliance with the aforementioned orders should be done within three months of receipt of this order. No order as to costs.



[Dinesh Sharma]
Administrative Member

Srk.