



Central Administrative Tribunal
PRINCIPAL BENCH

Smt. Lakshmi Swaminathan
Shri.....

Vice Chairman
Member (1)

Pre - delivery ORDER in

I.A.T.O. A. No. 457 of 1987-2001...

is sent herewith for consideration.

Report

V.K. Majumdar
(V.K. Majumdar)
A.M.
15.3.2002

V.C. (1)

I agree

Lakshmi
15/3

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(13)

O.A. NO.457/2001

This the 18th day of March, 2002.

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE-CHAIRMAN (J)

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Man Bodh S/O Ram Adhir,
Ex. Chowkidar, DSH Store Depot,
Northern Railway,
Tughlakabad.

... Applicant

(By Shri B.S.Mainee, Advocate)

-versus-

1. Union of India through
General Manager, Northern Railway,
Baroda House, New Delhi.

2. Deputy Chief Controller of Stores,
Northern Railway,
Shakurbasti, Delhi.

... Respondents

(By Shri Rajeev Bansal, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant, a Khalasi, was due to retire on 31.7.1996 on superannuation. However, due to inadvertence, he was allowed to work till 24.1.1997. Vide Annexure A-1 dated 16.1.2001, stating that while his actual date of retirement was 31.7.1996 and he was wrongly continued till 24.1.1997, an amount of Rs.22995/- paid to him in excess by way of pay and allowances etc. for the period 1.8.1996 to 24.1.1997 was ordered to be recovered from his retiral benefits. This order has been impugned by applicant stating it to be arbitrary and without serving a show cause notice on him. Learned counsel of applicant stated that continuance of applicant

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beyond the date of superannuation was not applicant's fault, therefore, no recovery can be made from his retiral benefits.

2. On the other hand, learned counsel of respondents relied on *Radha Kishun v. Union of India & Ors.*, JT 1997 (4) SC 116. In that case too, petitioner had worked even after superannuation age. It was held, "when he is not to continue to be in service as per law, he has no right to claim the salary etc. It is not the case that he was re-employed in the public interest, after attaining superannuation. Under these circumstances, we do not find any illegality in the action taken by the authorities in refusing to grant the benefits." The ratio of the above case is squarely applicable to the facts of the present case. Applicant cannot be held entitled to benefits for work done after superannuation.

3. In this view of the matter, the OA is dismissed being devoid of merit. No costs.

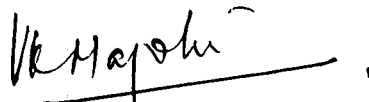
4. However, before parting with the case, we have to observe that respondents have also to be blamed for their inaction to retire the applicant on the date of his superannuation and also their tacit support in continuing him much beyond his age of superannuation. We condemn the casual approach adopted by respondents in not taking appropriate action at proper time in retiring applicant.

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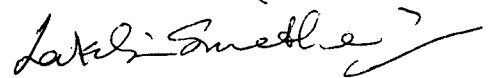
(15)

Respondents would be well advised to take suitable action towards fixing responsibility on the concerned officials for the aforestated lapse and proceed against them as per rules.

5. Let a copy of this order be issued separately by name to respondent No.1, General Manager, Northern Railway, Baroda House, New Delhi, for necessary action as above.



(V.K. Majotra)
Member (A)



(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

/as/