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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1513/98

New Delhi, this the 10th day of October, 2000

Hon'ble Mr. Justice V.Rajagopala Reddy, VC (J)
Hon'ble Sh. Govindan S. Tampi, Member (A)

Sh. Sohan Singh
s/o Shri Kartar Singh
Retired Junior Engineer-II (Bridges)
Bridge Workshop
Northern Railway
Jullundur Cantt.

Presently residing :

R/o House No. 2198
Gali No. 3
Chuna Mandi, Pahar Ganj
New Delhi.

....Applicant.

(By Advocate : Sh. B.S.Maini)

V E R S U S

Union of India : Through

1. The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Chief Engineer (Bridges)
Northern Railway
Baroda House
New Delhi.
3. The Dy. Chief Engineer (Bridges)
Northern Railway Bridge Workshop
Jullundur Cantt.

....Respondents.

(By Advocate Sh. R.P.Agarwal)

O R D E R (ORAL)

By Hon'ble Sh. Govindan S.Tampi, Member (A)

In this application, order dated 24-6-98 passed by the Dy. Chief Bridge Engineer, Northern Railway, Jalandhar is under challenge.

2. The applicant who joined Northern Railway on 7-7-1958, became a Bridge Mistry and thereafter Bridge Inspector in the pay scale of 1400-2300, in July 1992. Subsequently, the post was redesignated as Junior Engineer-II (Bridges). His pay was fixed at

Rs. 1760/- w.e.f. 1-11-92. The pay he was drawing at the time of retirement on superannuation on 31-10-96 was Rs. 1900/-. After his retirement the Respondents arbitrarily recovered an amount of Rs. 21,000/- from his retirement benefits without giving any reasons. The same was challenged by the applicant in OA No. 850/97 which was allowed by this Tribunal on 24-12-97, directing the respondents to refund the amount of Rs. 21,000/- with interest @ 12 %. The same was done. Following acceptance of the recommendations of 5th Pay Commission. The pay scale of the applicant was revised and he was given the replacement scale of Rs. 5600/- for Rs. 1800/- as against Rs. 5900/- which was the replacement scale for Rs. 1900/-. Sh. Maine, the learned counsel appearing for the applicant says that the impugned order revising his pay downwards after his retirement, that too without any notice was illegal and deserved to be set aside.

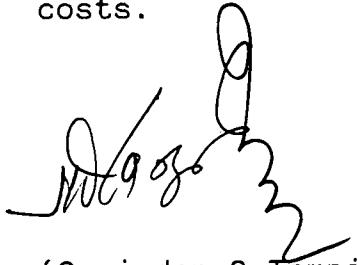
3. Sh. R.P. Aggarwal, the learned counsel appearing for the respondents drew our attention to the statement of fixation of pay of the applicant, annexed at R-3 of the counter. And stated that, what had occurred was the rectification of a mistake, which arose while fixing his pay on his promotion as Engineer II, in July 1992. Department was presently not proposing any recovery, but it has been accepted even by the Hon'ble Apex Court that the pay fixation correctly done should not be disbursed. As the pay of the applicant was wrongly fixed, his pay on retirement came to be Rs. 1900/- as against Rs. 1800/- which only he was entitled to get. Replacement pay of Rs. 5600/- was, therefore, correct and the applicant

(An)

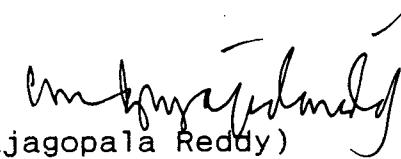
should not have any complaint, argued Sh. Aggarwal.

4. We had carefully deliberated on the matter. It appears from the papers that the refixation of pensionary benefits from Rs. 5900/- to Rs. 5600/- per month occurred, following the rectification of some mistake which had arisen while fixing his pay on his promotion in July 1992. This mistake was sought to be rectified, while refixing the pay and allowances following the acceptance of the recommendations of the Fifth Pay Commission. However, this order adversely affecting the application has been issued without putting him on notice, which was required to be done for adhering to the principles of natural justice. The order, therefore, is bad and deserves to be quashed, *on its own count*.

5. In the circumstances, the OA succeeds and is accordingly allowed. The impugned order is quashed and the respondents are directed to issue notice to the applicant detailing the grounds for re-fixation of the pay and pensionary benefits within two months from the receipt of this order and consider the representation of any, being made by the applicant within one month from the supply of grounds, and dispose it in another month by a speaking order. No costs.



(Govindan S. Tampi)
Member (A)



(V. Rajagopala Reddy)
Vice-Chairman (J)

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