

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No.1671/98

Hon'ble Shri R.K. Ahooja, Member(A)

New Delhi, this the 4th day of May, 1999

Shri Madhav Swaroop Sharma
S/o Shri Bhagwan Swaroop Sharma
R/o Vill. Bagdola, P.O. Bagdola
Palam, New Delhi

.... Applicant

(By Advocate: Shri G.D. Bhandari)

Versus

1. Union of India through
The General Manager
Northern Railway
Baroda House, New Delhi
2. Divisional Railway Manager
Northern Railway
Moradabad

.... Respondents

(By Advocate: Shri B.S. Jain)

O R D E R

The applicant joined the service of Railway as an Assistant Station Master in 1961. He was promoted as Station Master in January, 1979 in the grade of Rs.425-640 and was later successively further promoted to the grade of Rs.455-700 in August, 1982 which was revised to Rs.1600-2660 with effect from 6.5.1988. He retired on 30.6.1996 at which time he was drawing a basic pay of Rs.2675/- in the grade of Rs.1600-2660. His grievance is that the respondents have arbitrarily reduced his pay with retrospective effect from Rs.2675/- to Rs.2600/- without giving him even a show cause notice. As a result he has been put to a financial loss as his retiral benefits including his pension have been calculated on the basis of a pay of Rs.2600/- instead of Rs.2675/-.

On

2. The respondents in their reply have raised two preliminary objections, first that the O.A. is time barred as the impugned order namely the PPO is dated 30.6.1996 while the O.A. has been filed on 27.8.1998, after a delay of more than two years. They also say that the O.A. is not maintainable in the Principal Bench as the applicant is a resident of Agra District. On merits, they say that it was noticed at the time of his retirement while scrutinising his service record that by a clerical mistake the applicant's pay was wrongly fixed at Rs.500/- in the grade of Rs.425-640 w.e.f. 23.1.79 when it should have been fixed at Rs.485/-. Accordingly, this error was rectified resulting in reduction of his pay at the time of his retirement from Rs.2675/- to Rs.2600/-. The excess amount of salary paid to him was recovered from his DCRG and his pensionary benefits were computed on the basis of his correct pay. The applicant had filed a representation which was examined and he was advised by letter dated 30.6.96 (copy at Annexure R-1) that his pay has been correctly fixed at Rs.2600/-.

3. The preliminary objections taken by the respondents are not valid. The wrong fixation of pay depicted in his Pension Payment Order gives a recurring cause of action to the applicant. The applicant has stated that he is currently staying at Delhi for the treatment of his wife. The O.A. is, therefore, maintainable before the Principal Bench.

Dr

4. On merits also the respondents have no case whatsoever. They have not denied the allegation of the applicant that his pay was revised from Rs.2675/- to Rs.2600/- without giving him a show cause notice. The applicant could not be visited with such wide ranging civil consequences affecting his life long pension as also his retiral benefits without an opportunity to be heard in the matter. On this short ground alone the action of the respondents in revising his pay downwards is liable to be struck down. For the same reason, their action in recovering the so called excess payment from 1969 onwards from his DCRG is unsustainable.

5. Shri G.D. Bhandari, the learned counsel for the applicant, has also relied on orders passed by this Bench in O.A. No.1951/96 decided on 13th February, 1998. The applicant therein had retired from service of Railway w.e.f. 30.6.96 with a basic pay of Rs.1640/- p.m. By an Order dated 11.10.96 the respondents effected recovery of Rs.17,657/- from his DCRG and also fixed his pension by reducing his pay on the ground that earlier the pay of the applicant on promotion to the category of Assistant Station Master had been wrongly fixed. The Tribunal held that Order of refixation of pay and the Order of recovery were bad in law and apart from directing reimbursment of recoveries with interest, also imposed heavy cost on the respondents.

6. The Hon'ble Supreme Court also held in Satish Ram v. State of Haryana & Ors. JT 1995(1) SC 24 that where the alleged wrong fixation of pay in the past has been made for no fault of the employee, he could not

or

be penalised and recoveries could not be made from him on his retirement. In the ratio of this order also the respondents cannot after 17 years put the applicant to loss reducing his pay after his retirement.

(14)

7. In the result the O.A. is allowed. The respondents are directed to restore the pay of the applicant to Rs.2675/- at the time of his retirement, and to reimburse ~~ent~~ ^{to be} all the recoveries made from his DCRG with interest @ 12 per cent per annum on the basis of pay of Rs.2675/- ~~and~~ the difference paid to him within two months from the date of receipt of copy of this order. No costs.

R.K. Ancoja
(R.K. Ancoja)
Member(A)

SC*