

Central Administrative Tribunal  
Principal Bench

O.A.No.1784/98

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

New Delhi, this the 12th day of April, 1999

A.C.Madan  
s/o Shri Chaman Lal Madan  
Inspector of Works (Land) (Retd.)  
Divl. Rail Manager's Office  
Northern Railway  
New Delhi.  
r/o A-74, Kirti Nagar  
New Delhi. ... Applicant

(By Shri M.L.Sharma, Advocate)

Vs.

1. Union of India through  
General Manager  
Northern Railway  
Headquarter Officer  
Baroda House  
New Delhi.
  2. Divisional Rail Manager  
Northern Railway  
New Delhi. ... Respondents
- (None)

O R D E R (Oral)

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

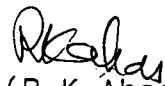
The applicant retired on 31.5.1996, after rendering 33 years of service. At the time of his retirement his pay was fixed at Rs.3050/- in the pay scale of Rs.2000-3200. His grievance is that the respondents reduced his pay from Rs.3050 /- to Rs.2975/- on the ground that while examining his records it was discovered that his pay had wrongly been fixed on his promotion in the grade of Rs.2000-3200 in 1986. As a result of this reduction in his pay the respondents have not only given him lesser retiral benefits but have also recoveries from his gratuity on account of alleged over payments made to him on account of wrong fixation of pay in 1986.

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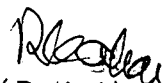
2. When the matter came up on 9.4.1999, none had appeared for the respondents. Today also when the matter came up none has appeared for the respondents even on the second call. I am therefore left with no alternative but to hear the learned counsel for the applicant and to decide the matter on the basis of the available pleadings on record.

3. The learned counsel for the applicant relies on the orders of this Tribunal in OA No.2464/97, decided on 15.5.1998 in which in a similar case the respondents' orders for reduction of pay on account of wrong fixation of pay were quashed. An appeal against this order was also dismissed by the Delhi High Court vide order dated 24.11.1998 in CW 6068/98 & CM 11430/98. I find that the facts and circumstances of the present case are also covered by the ratio of the orders of the Tribunal in OA 2464/97. The applicant retired on 31.5.1996. The respondents came to the conclusion that his pay had been wrongly fixed in 1986. For 10 years no action was taken during the service period of the applicant to correct this mistake. There is no allegation that the pay of the applicant was fixed on the basis of wrong representation given by the applicant. No notice has also been given to the applicant before reducing his pay. The Law is now well settled that even where pay of the official wrongly fixed, the excess payment cannot be recovered after lapse of several years, particularly so if the alleged error has not been caused due to any fault on the part of the official concerned. (See Shyam Babu Verma Vs. Union of India and Others, 1994 SCC (L&S) 683 and Sahib Ram Vs. State of Haryana and Others, 1995 SCC(L&S) 248).

4. In view of the above position and following the ratio of Tribunal's order in OA No.2464/97, the impugned order, Annexure-A1 is quashed. The respondents will give retiral benefits of the applicant on the basis of his basic pay as Rs.3050/- p.m. and pay the difference of retiral benefits and also refund the recovery, if any, already affected within a period of four months from the date of receipt of a copy of this order. The applicant will also be entitled to 12% interest on the differential amount in retiral benefits as well as refunded amount upto the date of actual payment.

  
(R.K. Ahooja)  
Member(A)

Later after the order had been dictated in open court, Shri R.K.Shukla, Proxy of Mrs. B.Sunita Rao, learned counsel for the applicant appeared but could adduce no ground for recalling the above order.

  
(R.K. Ahooja)  
Member(A)

/rao/