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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 395/96

New Delhi this the 20th day of May, 96.

Hon'ble Shri A.V. Haridasan, Vice Chairman(J).
Hon'ble Shri R.K. Ahooja, Member(A).

Churamani,
Ex-Mazdoor (Civilian),
Vill- Mewati Ka Nagla,
PO - Maholi,
Distt. Mathura (UP).

... Applicant.

By Advocate Shri D.N. Sharma.

Versus

1. The Union of India, through
The Secretary to the Govt. of India,
Ministry of Defence,
South Block,
New Delhi.
2. The Director General of Supplies
and Transport (ST-12),
Quarter Master General's Branch,
Army Headquarters, DHQ Post Office,
New Delhi.
3. The Commandant,
3, Reserve Petroleum Depot, ASC,
Mathura (UP).

... Respondents.

By Advocate Shri M.M. Sudan.

ORDER (ORAL)

Hon'ble Shri A.V. Haridasan, VC(J).

The applicant, who was compulsorily retired from service as a penalty by order dated the 22nd April, 1994, is aggrieved by the order dated the 27th July, 1995 directing to recover a sum of Rs. 1730/- from his monthly pension in 36 equal monthly instalments, on the ground that he had, during the year 1991-93, made a false claim

of medical reimbursement of that amount. The applicant contends that the impugned order is illegal, unjustified and arbitrary as the same has been issued without any notice to him, and without any finding that the applicant had caused any pecuniary loss to the government.

2. Respondents have filed a reply seeking to justify the order, on the ground that the applicant having made a false claim of medical reimbursement the only way by which the amount can be realised is by ordering recovery from monthly pension.

3. When the matter came up for hearing on admission, the counsel on either side agreed that the application may be finally disposed off on this stage itself.

4. On a perusal of the pleadings and documents on record and after hearing the learned counsel for the parties, we find that the impugned order is not sustainable in law. It appears that the applicant while in service was proceeded against for ~~earlier~~ alleged misconduct vide memorandum of charges dated 11th October, 1996 (Annexures A-2 and A-3). Though there is allegation that the applicant made false claim and cheated, it has not been specifically alleged that he had received Rs.17301/- which he was not entitled to get. As a result of the proceedings, a penalty of compulsory retirement was awarded to the applicant by order dated 22nd April, 1994 (Annexure A-8). The applicant stood retired accordingly. Apart from imposing a penalty of compulsory retirement, there was no order for recovery of any amount from the reitral benefits of the applicant. Therefore, after awarding one penalty, the respondents cannot now impose another penalty of

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recovery from pension. There is nothing in the order of penalty (Annexure A-8) which indicates that the applicant has caused pecuniary loss to the government nor was it ordered that any amount be recovered from the applicant's monthly pension. Therefore, the impugned order passed more than a year after the retirement of the applicant abruptly without notice is illegal, void and unsustainable.

5. In the conspectus of facts and circumstances, the application is allowed and the impugned order dated the 27th July, 1995 ordering recovery from the pension of the applicant is set aside. - No costs.

R.K. Ahuja
(R.K. Ahuja)

Member (A)

(A.V. Haridasan)
Vice Chairman (J)

SRD