

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

R.A. NO. 73/1998
MA NO. 817/1998
OA NO. 1562/1996

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New Delhi this the 10th day of January 2002

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

Shri S P VermaPetitioner

(By Advocate Shri R L Dhawan, counsel)

Versus

Union of India & Others.....Respondents

(By Advocate Shri M K Bhardwaj)

O R D E R

R.A. No. 73/1998 has been filed seeking review of order dated 12/12/1997 passed by the Tribunal disposing of the OA No. 1562/1996.

2. Heard Shri R L Dhawan for the Review applicant and Shri M K Bhardwaj, learned counsel for respondents (applicant in O.A.).

3. Shri R L Dhawan, while pressing the review application pointed out that the Tribunal had decided the matter of incorrect appreciation of the facts as the amount recovered from the applicant wrongly was only Rs.6189/- and not Rs. 11,200/- as has been noted by the Tribunal. Since there has been an error on the face of the record the RA should be allowed. The earlier order review and justice done to the review applicant.

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4. I have perused the relevant order sought to be reviewed. The operative operation of the order reads as under:

"In the light of the above discussion, this OA is partially allowed with a direction to the respondents to release the sum of Rs. 11,200/- to the applicant within a period of three months from the date of receipt of a copy of this order. No costs."

5. The above conclusion have been arrived at on the basis of findings in para 4 and 5 above order, they are reproduced as below:

"The case of the applicant in regard to the recovery of Rs. 11,200/- from the arrears paid to him is entirely on a different footing. In the counter the respondents have stated that the applicant had himself offered that the outstanding against him be deducted from arrears. They also mentioned that a copy of this letter is annexed with the reply. However, as pointed out by the applicant in his rejoinder no such copy was enclosed. However, the learned counsel for the respondents has produced a copy of a letter dated 2.2.1993 written by the applicant to the senior DPO, Northern Railway, Bikaner. The same has been taken on record. The letter is actually a complaint that the arrears bill of the applicant was not being prepared even though to save time he had himself prepared an arrear statement. He went to say:

"Neither they are preparing the bill themselves nor accepting the bill prepared by myself and duly forwarded by a responsible person after checking the records. A copy of the same I am attaching with this application. If the clerks found excess amount in this bill so excess amount can be deducted from my pay but they should not refuse to pass it."

Learned counsel for the respondents submits that this was clearly a voluntary offer that the recoveries may be deducted. I am however unable to agree with this interpretation. The context makes it clear that the applicant wanted his arrears bill expedited and to that end was making a statement that in case the bill prepared by him was found excessive then the excess amount could be deducted and the rest passed. There was no reference in this letter to recoveries on account of over payments made in the past.

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5. The learned counsel for the respondents also drew my attention to the letter of the applicant dated 1.8.1975, Annexure A5 whereby he had offered the recovery of hard duty allowance for Rs. 238/- in lieu of the advance increments for loyal service. This letter cannot be read as an offer to deduct a sum of Rs. 11,200/- from the arrears due to the applicant. No details whatsoever have been given regarding the outstanding dues from the applicant nor has he been given any opportunity to show cause before such recoveries were directed to be made. In this respect there is also no bar or limitation as admittedly the arrears were paid to the applicant in 1995. Clearly the applicant is entitled to the payment of Rs. 11,200/- which has been deducted from his arrears."

5. It is evident that the Tribunal while passing the order had gone through all the facts placed before it and had interpreted the facts in the backdrop of the prevailing law. I have also perused the OA No.1562/1996 wherein the applicant has made a specific plea that the act of the respondents in recovering an amount of Rs. 11200/- from the arrears of pay/increments payable to the applicant as illegal and arbitrary. The counter filed by the respondents in the OA (the present Review Application) does not rebut the same. That being the case, the Tribunal could not have to come to any decision other than what it did and there is no error apparent on record as alleged by the petitioner in Review Application. The Review Application therefore fails and is accordingly dismissed.

(Govindan S. Tampi)
Member (A)

Patwal/