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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 1239 of 1997 Decided on: 19.2.98

Pooran Singh Applicant(s)
(By Advocate: Shri M.K. Gaur)

VERSUS


U.O.I. & Ors. Respondents

(By Advocate: Shri P.S. Mahendru)

CORAM

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

1. To be referred to the Reporter or not? YES
2. Whether to be circulated to other Benches of the Tribunal? NO


(S.R. ADIGE)
VICE CHAIRMAN (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 1239 of 1997

New Delhi, dated the 19th February 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE Mrs. LAKSHMI SWAMINATHAN, MEMBER (J)

Pooran Singh,
S/o Shri Inder Singh,
Bhim Gali,
House No.617, Malka Ganj,
Old Subzi Mandi,
Delhi.

.... APPLICANT

(By Advocate: Shri M.K. Gaur)

VERSUS

1. Union of India
through the General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divl. Railway Manager,
Northern Railway,
Bikaner (Rajasthan)

3. The Asst. Engineer,
Northern Railway,
Rewari-123401.

... RESPONDENTS

(By Advocate: Shri P.S. Mahendru)

J U D G M E N T

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns respondents' order dated 3.10.96 (Annexure A-1) refixing his pay and ordering recoveries.

2. Admittedly applicant was appointed as Chowkidar (Rs.775-1025) in 1988, and was transferred as caretaker on 5.11.93. He contends that the pay scale of caretaker is

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the same as that of Chowkidar viz Rs.775-1025, and he does not know why he was transferred, while respondents state that the caretakers' pay scale is Rs.775-940, and applicant was transferred at his own request. Respondents further state that as applicant was being wrongly paid pay scale of Rs.775-1025, the error was rectified by impugned order dated 3.10.96 and his pay was therefore, correctly fixed in scale of Rs.750-940 by that order, and recoveries of excess payments were ordered to be made.

3. Admittedly applicant retired on superannuation on 30.11.96 .

4. It is not denied by respondents that no show cause notice was given to applicant before the impugned order dated 3.10.96 was passed. In this connection applicant's counsel has relied on two judgments namely B.Shukla Vs. UOI & Ors. (1994) 28 ATC 258, and Shri Ragho Sao Vs. UOI & Ors. AISLJ XII-1996 (3) 600, on the point that recovery of pay ordered as a result of re-fixation entails civil consequences, and such orders passed without giving an opportunity to the affected party ~~and~~ to show cause is a denial of natural justice, and cannot be sustained.

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5. On the other hand we have no reason to doubt respondents' contention that the pay scale of caretaker to which applicant was transferred is Rs.750-940 and not Rs.775-1025 as claimed by him.

6. In the facts and circumstances of this particular case and having regard to the rulings cited by applicant's counsel, we allow this O.A. to this extent that the impugned orders dated 3.10.96 are quashed and set aside, and respondents are directed not to effect recoveries from applicant's pension and refund to him recoveries, if any already made. We, however, make it clear that applicant will be entitled to pension and other retiral benefits only on what he should have been paid as caretaker in the scale of Rs.750-940, and not in the scale of Rs.775-1025, which is not the pay scale of caretaker which applicant held prior to his retirement on superannuation.

7. The O.A. is disposed of in terms of Para 6 above. No costs.

Lakshmi Swaminathan
(Mrs. LAKSHMI SWAMINATHAN)

Member (J)

S.R. Adige
(S.R. ADIGE)

Vice Chairman (A)

/GK/