

Central Administrative Tribunal  
Principal Bench: New Delhi

O.A.No.850/97

New Delhi/this the 24<sup>th</sup> day of December 1997

HON BLE SHRI N.SAHU.MEMBER(A).

Sh.Sohan Singh,  
S/o Sh. Kartar Singh,  
R/o House No.2198, Gali No.3,  
Chuna Mandi, Pahar Ganj,  
New Delhi.

..... Applicant

(By Advocate Sh.B.S.Maine)

Versus

Union of India through

1. The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
  2. The Chief Engineer (Bridges),  
Northern Rly. Hd.Qtrs.Office,  
Baroda House,  
New Delhi.
  3. The Dy.Chief Engineer (Bridges),  
Northern Rly. Bridge Workshop,  
Jullundhur Cantt.
- ..... Respondents.

(By Advocate Sh.P.S.Mahendru)

ORDER(Oral)

By Hon'ble Shri N. Sahu, Member(A).

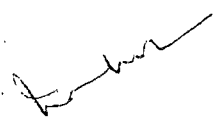
The applicant is aggrieved by an order of the respondents in reducing the salary after his retirement without affording him an opportunity of being heard. Consequently recovery of an amount of Rs.21,000/- from his retirement benefit is challenged in this O.A. The applicant had been working as a Bridge Mistry. He was promoted to the post of Bridge Inspector in July, 1992. He was in the pay scale of Rs.1400-2300/-. On his promotion his pay was fixed at 1700/- w.e.f. 1.11.92. He retired on

30.10.96. At the time of retirement his pay was 1900/-  
The applicant was surprised when a sum of Rs.21,000/- was  
recovered from his gratuity without explaining to him any  
reason for such an action. It is submitted in the counter  
that this deduction represented excess pay drawn by the  
applicant due to wrong fixation. He drew excess amount on  
account of leave encashment, DCRG and commutation.

2. Learned counsel for the applicant submitted  
that reducing his retirement benefit without affording him  
an opportunity is bad in law. He cited the decision of the  
Supreme Court in Bhagwan Shukla's case SLJ 1995(2)SC 30.  
The learned counsel further submits that even on merits the  
respondents action is unjustified. It is true that the  
scale of Bridge Mistry and Bridge Inspector may be the same  
but admittedly on promotion the Bridge Inspector now known  
as Junior Engineer-II(Bridges) is a promotional post  
carrying higher responsibilities.

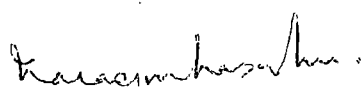
3. Learned counsel for the respondents admitted  
that the recovery has been ordered without issuing a show  
cause notice to the applicant though he submitted that  
according to the respondents they have a case on merits.

4. I have also to record a submission made by  
Shri Mainee that when the pay was fixed at Rs.1760/- on  
1.11.92 the order was vetted by the Accounts Department and  
it does not lie with the respondents to say after 4 years  
of the retirement of the applicant, that they had committed  
a mistake earlier. Such mistake should have been rectified  
within a reasonable time and there is no justification to  
reduce some part of the retiral benefit on account of some  
administrative mistake allegedly committed long time back.



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5. In view of above discussion I am satisfied that the impugned order at Ann.R-3 page 10, reducing applicant's retirement benefits by Rs.21,000/- is hereby quashed. The amount shall be refunded to the applicant within one month from the date of receipt of a copy of this order. Respondents are directed to pay the amount with 12% interest from the date from which it was due till the actual date of payment of amount to the applicant. Respondents however are at liberty to take any further action on this issue permissible under law and in accordance with law. OA is allowed to the extent stated above. No costs.

  
(N. SAHU)  
MEMBER(A)

RE.