

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 850/97

New Delhi this the 24th 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. Mainee)

versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Chief Engineer (Bridges),
Northern Rly. Hd. Qrtrs. 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



(B)

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 SJ 1995(2)SC 130. 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 Maine 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.

Shri N. SAHU
(N. SAHU)
MEMBER(A)

RB.