

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 923/1997 198
P.A. No.

DATE OF DECISION 15/01/1998

Sh. Kishan Kinku Sharma Applicant (s)

Sh. M. L. Sharma Advocate for the Applicant (s)

Versus

UOI, B. J. Khan Respondent (s)

Sh. B. S. Jain Advocat for the Respondent (s)

CORAM :

The Hon'ble Mr. R. K. AHOJA, Member (A)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? - No.
2. To be referred to the Reporter or not? Yes

R. K. AHOJA
Member (A)

Central Administrative Tribunal
Principal Bench

O.A.No.923/97

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 15th day of January, 1998

Shri Krishan Kirti Sharan
Senior Draftsman (Retired)
S&T/Const., Northern Railway
Headquarters Office
Baroda House
New Delhi.
r/o B-75, Lal Bagh, Loni
Ghaziabad.

... Applicant

(By Shri M. L. Sharma, Advocate)

Vs.

1. Union of India through
General Manager
Northern Railway
Headquarters Office
Baroda House
New Delhi.

2. F.A. & C.A.O.
Northern Railway
Headquarters Office
Baroda House
New Delhi.

3. Chief Personnel Officer
Northern Railway
Headquarters Office
Baroda House
New Delhi.

... Respondents

(By Shri B.S.Jain, Advocate)

O R D E R

The applicant joined service as Draftsman (Signal) on 16.9.1963 and retired from Northern Railway, Headquarters Office on superannuation on 31.7.1996. At the time of his retirement, he was drawing a basic pay of Rs.2,200/-. On that basis he was paid his retiral dues including Provident Fund amounting to Rs.1,01,561, one third of commutation of pension Rs.45,815 and DCRG Rs.71,511/-. Cheques for these amounts were issued to the applicant and were deposited in the State Bank of India, Karwal Nagar Branch, Delhi in his Savings Bank Account. These deposits were made on 2.8.1996. The grievance of the applicant is that

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thereafter on 19.8.1996 the respondents wrote a letter to the said branch of State Bank of India to return the money to Respondent No.2, namely, FA & CAO, Northern Railways through a Demand Draft/Bankers Cheque. This was done by the Bank through the Bankers Cheque dated 20.8.1996 for a sum of Rs.1,17,326/-. The applicant alleges that this recovery was made contrary to the relevant Rules and without putting him on notice to show cause.

2. The respondents in their reply have stated that they were informed by the letter of General Manager, Vigilance dated 30.7.1996 received on 2.8.1996 that a charge-sheet for a major penalty had been issued against the applicant on 9.8.1995. In view of the pending vigilance case, the applicant was not entitled to the receipt of DCRG and Commutation of Pension and it was on that basis that the Bank was directed to return the money to Respondent No.2.

3. I have heard Shri M.L.Sharma, learned counsel for the applicant and Shri B.S.Jain, learned counsel for the respondents. It is clear in my view that Respondent No.2 had no right to recover the amount in the manner it was done. The applicant had been sanctioned his retirement dues including the commutation of pension as well as DCRG and these dues had been discharged by the issue of the Cheque which the applicant deposited in his own Savings Bank Account. As explained by the learned counsel for the applicant, the applicant had opened his Savings Bank Account in the Karawal Nagar Branch of the SBI under the Scheme for deposit of pension, month to month. The payment of pension directly by the Banks is a facility extended for the benefit of the pensioners and it does not mean that once the payment has been made into the personal account of the pensioner it remains

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within the control of the pension payment authority. Once the pension has been credited to the personal account the same comes within the control of the pensioner and belongs to him. The learned counsel for the respondents had no answer to the question that in case the pensioner had chosen to withdraw the money from his Bank account before Respondent No.2 wrote the letter to the Bank then in what manner the recovery could have been made without initiating civil proceedings against the applicant. The argument advanced that the money could be taken back, because it was wrongly paid, without giving any opportunity or notice to the applicant, does not stand to reason. In fact the conduct of the concerned branch of the SBI in taking money belonging to the applicant and deposited by him in good faith and giving it to Respondent No.2 without consent of the depositor and without the orders of the competent judicial authority is in itself deserving of a severe censure.

4. Once the pension has been sanctioned, the same can be withheld or withdrawn only under Rule-9 of the CCS (Pension) Rules. As held by the Hon'ble Supreme Court in Bhagwan Shukla Vs. Union of India & Others, 1994 SCC (L&S) 1320 the pay cannot be reduced by the department behind the back of the applicant without following the procedure under law. On the ratio of Bhagwan Shukla (Supra), it is clear that in the present OA the recovery has been made behind the back of the applicant not only in flagrant violation of natural justice but in a manner which constitutes a betrayal of the trust which a depositor reposes in his bank when he deposits his money.

5. In the light of the above discussion, the OA is allowed. The respondents are directed to refund the amount to the applicant along with 18 per cent interest from the date of

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This will be done

withdrawal to the date of actual payment within a period of three months from the date of receipt of a copy of this order. No costs.

~~R.K. Ahoja~~
(R.K. AHOJA)
MEMBER(A)

/rao/