

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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O.A. NO. 1849/89

DATE OF DECISION : 27.3.92

SHRI K.C. DHIR

...APPLICANT

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

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SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT

... SHRI SANT SINGH

FOR THE RESPONDENTS

... SHRI B.K. AGGARWAL

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

The applicant, who retired on superannuation on 31.5.1986 while working as Goods Supervisor, NDLS Goods Shed (QTS), New Delhi, aggrieved by the impugned order dt.30.3.1989 (Annexure A1), filed this application under Section 19 of the Administrative Tribunals Act, 1985.

2. The applicant has claimed the following reliefs :-

- (i) That the impugned order dt.30.3.1989 (Annexure A1) be quashed.
- (ii) That respondent No.2 be directed to make all the payments of the dues with interest as under :
 - (a) Non-revision of pension on revised pay of Rs.2250 w.e.f. 1.5.1986.
 - (b) Pay difference from 1.1.1986 to 31.5.1986 of Rs.873 lying undisbursed since 16.5.1986 (Reference File No.A.B.124 EPC).

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(c) Arrears of H.R.A., C.C.A. and Leave Encashment as a result of revision of pay, 4th Pay Commission Report.

(d) Held up payment of Rs.4,900 as gratuity plus difference of additional payment of gratuity due to revision of pay, 4th Pay Commission Report.

3. The brief facts of the case are that the applicant retired on 31.5.1986 on attaining the age of superannuation. It is stated that the applicant was entitled to the payment of gratuity of Rs.31,536.25, but he was paid Rs.26,636.25 only on 1.8.1986 in the Lok Adalat held in Baroda House, New Delhi. The balance of Rs.4,900 was withheld by respondent No.2, DRM, Northern Railway, New Delhi. Later on applicant came to know that T.T.A. OKZ had raised some objected debit in September, 1985 against NDLS Goods Shed for Rs.49,001.20. On this, CGG NDLS held an enquiry in February, 1986 in which Accounts Officer (STN) DK2 Sh.R.L.Jaggi and ATS(Com) Sh.Kartar Singh were the Enquiry Officers. In the enquiry report, it was held that the said debit be withdrawn. It is stated that the applicant appealed to CPO, Northern Railway, Baroda House on 8.10.1986 requesting him to release the balance payment of Rs.4900. The applicant again made a similar request to the Senior DCS, DRM Office, New Delhi in his letter dt.9.10.1986 (Annexure A4). It is further stated that the applicant has been writing again and again to various authorities for the release of the balance payment of gratuity and for non settlement of revised pensionary dues.

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as per the IVth Pay Commission's report, but to no effect. The applicant made a written request to the Chief Vigilance Officer, Baroda House for taking necessary action for obtaining the applicant's service records from CBI Office to enable the DRM, Northern Railway, New Delhi to expedite the payments of the applicant's revised pensionary benefits (Annexure A5). In the letter dt.17.2.1989, the applicant again requested the DRM, Northern Railway, New Delhi to expedite the payment of the dues (Annexure A6). On 7.4.1989, the applicant sent a reminder to the Hon'ble Minister, but to no effect. On 18.5.1989, the applicant wrote to respondent No.2 referring to the earlier letters and prayed to expedite the payment of all these dues, but to no effect.

4. The respondents contested the application and stated in the counter that when the department came to know that a recovery of Rs.49001.20 was to be made from the applicant and only an amount of Rs.4900.20 was recovered by mistake, the impugned letter dt.30.3.1989 (Annexure A1) was issued to the applicant for depositing the balance with the department. It is further stated by the respondents that the applicant very well knew that a debit was raised by TLA, OKZ in September, 1985. The respondents

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stated that no appeal was made by the applicant to CPO, Northern Railway, Baroda House to release the balance payment of Rs.4900. It is also stated that no representation was made against the impugned order dt.30.3.1989 (Annexure A1), in which a recovery of Rs.44,101 was demanded. The applicant filed the rejoinder and stated therein that no recovery of Rs.49,001.20 is outstanding against him. The applicant has also stated that no show cause notice or any opportunity was given to him before withholding the amount of Rs.4900.

5. I have heard the learned counsel for the parties and have gone through the record of the case. It is not disputed that the applicant has retired as Goods Supervisor on superannuation on 31.5.1986. He was also issued PPO dt.4.6.1986. Since there was no enquiry instituted against the applicant on the objection of certain debit raised against the applicant, as a result of suspected fraud at New Delhi Good Shed in respect of Wagons load transaction, so the impugned order issued on 30.3.1989 (Annexure A1) cannot give a right to the respondents to withhold the unpaid amount of DCRG amount to Rs.4900~~1~~.20. The impugned order further directs the applicant that he still has to pay Rs.44,101 as the amount has not been recovered from him. In any case, after this letter of March, 1989 was

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issued to the applicant by DRM office, New Delhi, the applicant made a representation to CPO, Baroda House, New Delhi in October, 1986 (Annexure A3). In this, the applicant has specifically stated that a decision was given on 28.5.1986 in which it was mentioned that the debit raised by the TIA may, therefore, be withdrawn in view of the findings given in the report of the Enquiry Officer vide File No.C II/D/152/PBA/M/85. The applicant has also filed a letter by Area Superintendent, Delhi addressed to Additional FA & CAO, Northern Railway that the debit raised by the TIA may, therefore, be withdrawn.

After representation made in October, 1986, the applicant has also made subsequent representation time and again, but he was not given any reply and ultimately he has to file the present application. The respondents in their counter did not specifically give any detail of the objection raised on the payment of unpaid amount of DCRG. Merely stating that the debit of Rs.49001.20 has been raised against the applicant, will not satisfy the requirement for placing a counter claim on the applicant. In any case, the respondents in their counter filed admitted the receipt of representation dt.18.5.1989 in para 4.11 of their counter. In this representation, the applicant has again requested

for payment of the balance amount of gratuity besides revision of pension to him released of certain amount. In fact, the counter filed by the respondents through their counsel is nothing, but a show piece which does not meet all the requirements of the para wise reply which have been specifically stated by the applicant in the Original Application. In para 4.9, the applicant has stated that he has requested the DRM, Northern Railway for redress of the grievances specifically stated under Heading (a) (b) (c) and (d) and in reply to para-4.9 in the counter it is only stated that no such letter was available in the record of the DRM office. While in para-4.11, the receipt of the representation dt.18.5.1989 (Annexure A8) has been acknowledged. In this also, the applicant has requested for redress of these grievances, which are revision of pension on revised pay, release of Rs.869; arrears due in leave in cash; arrear due to commutation on revised pension and balance gratuity of Rs.4900. In the counter filed by the respondents, the respondents have not given any reason whatsoever as to why the request of the applicant for redress of the above noted grievances was not considered favourably or in any manner and nor there is an explanation or averment giving any detail of any facts that the applicant is not entitled to the grant of the reliefs which he has claimed.

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6. The learned counsel for the respondents also could not throw better light in the case during arguments except relying on the succinct facts stated in the counter on record. In view of the above facts, the applicant has made out a case that the respondents have not granted him the relief which he has prayed in his representation regarding payment of withheld amount of DCRG, revision of pensionary benefits, payment of arrear due to leave encashment, commutation of pension etc. on account of the recommendation of the 4th Pay Commission as the applicant has retired on 31.5.1986 and the recommendation of the Central 4th Pay Commission were enforced retrospectively by a notification issued in September, 1987.

7. In view of the above facts, the application is allowed for the reliefs claimed by the applicant, referred to in para-2 of the judgement above. The respondents to comply with this order preferably within a period of three months from the date of receipt of a copy of this order. In the circumstances, the parties shall bear their own costs.

J. P. Sharma
(J.P. SHARMA) 27.3.92
MEMBER (J)