

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00542/2020

Jabalpur, this Friday, the 16th day of October, 2020

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE MS. NAINI JAYASEELAN, ADMINISTRATIVE MEMBER



Harinarayan Patel,
S/o Shri Dharam Das
Aged about 63 years
Rtd. SSE (CEW) Bhopal
R/o 54 Astha Vihar Phase II
Near Regal Town Awadhpuri
District Bhopal (M.P.)

-Applicant

(By Advocate –**Shri Shobhitaditya**)

V e r s u s

1. Union of India
Through the Secretary
Ministry of Railways
New Delhi 110001

2. West Central Railway Through the General Manager
West Central Railway Jabalpur 482001

3. The Principal Finance Advisor
West Central Railway Jabalpur 482001

4. The Principal Chief Personnel Officer
West Central Railway Jabalpur 482001

5. The Divisional Railway Manager (DRM)
Bhopal Division, West Central Railway
District Bhopal 462016

- Respondents

(By Advocate –**Shri A.S. Raizada**)

ORDER (Oral)**By Ramesh Singh Thakur, JM:-**

Heard.



2. This Original Application has been filed by the applicant against the order dated 25.09.2017 (Annexure A/3) whereby an amount of Rs.258874/- has been ordered to be recovered from the applicant only 2-3 days before his retirement.

3. From the pleadings the case of the applicant is that the applicant after attaining the age of superannuation from the post of SSE (C&W) HBJ/Bhopal retired on 30.09.2017. The respondent No.5 has issued impugned order dated 25.09.2017 (Annexure A/3) for the recovery of Rs.258874/- from the applicant on account of mistake that the third MACP has been granted to the applicant from 24.10.2008 but the same ought to have been granted w.e.f.10.09.2011. The applicant submitted his representation dated 06.10.2017 (Annexure A/5) stating that no irregularity or error has been alleged against him and the said recovery has been imposed against him after the delay of six years and just 2-3 days before his retirement is against the decision of Railway Board RBE No.72/2016 and also against the judgment passed by Hon'ble Apex Court in the case of *State of Punjab vs. Rafiq Masih* (2015) 4 SCC 334 (Para 18).

4. It has been submitted by the applicant that respondents have failed to take any action in pursuance to the letter of respondent No.5 dated 11.09.2018 (Annexure A/6) and the applicant has again submitted its representation/reminder dated 15.11.2018 (Annexure A/7) for the waiver of the aforesaid recovery.



5. The respondent No.5 against issued letter dated 25.01.2019 (Annexure A/8) to respondent No.4 to take necessary decision regarding waiver of the recovery against the applicant by specifically mentioning that the same has already been approved by the competent authority. The Senior Divisional Personal Officer, Bhopal also issued letter dated 28.05.2019 (Annexure A/9) to respondent No.4 to take necessary action regarding waiver of the recovery against the applicant.

6. In pursuance to aforesaid repeated correspondence the respondent No.4 vide its letter dated 10.06.2019 (Annexure A/10) advised respondent No.5 to take action in terms of RBE No.72/2016 and as per provisions of Model SOP, Para 1013 to 1019 of IREM. The respondent No.4 issued general direction dated 22.07.2019 (Annexure A/11) in reference to the ratio of **Rafiq Masih** (supra) and RBE No.72/2016, that in accordance with the Railway Board O.M. dated 02.03.2019 and as per Model SOPEST

part F (Estt matter) I No.17 the DRM/ADRM/SAG officers have full powers to waive recovery of overpayment on division level.

7. At this stage learned counsel for the applicant submits that the applicant will be satisfied if the competent authority of the respondents is directed to decide the issue of the applicant in a time bound manner.



8. We have considered the matter and we are of the view that the natural justice will be met if the competent authority of the respondents is directed to decide the representation dated 20.07.2020 (Annexure A/13) in a time bound manner.

9. Resultantly, the competent authority of the respondents is directed to decide the applicant's representation 20.07.2020 (Annexure A/13) within a period of four weeks after receiving the copy of this order.

10. Needless to say that the respondents shall take decision by way of passing the reasoned and speaking order. Respondents shall also deal with all the contentions raised in Annexure A/13.

11. With these observations, this Original Application is disposed of at admission stage itself.

(Naini Jayaseelan)
Administrative Member

(Ramesh Singh Thakur)
Judicial Member

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