

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO. 1775/87

DATE OF DECISION: 27.8.1990

SHRI MANOHAR LAL CHAWLA
UNION OF INDIA & OTHERS

APPLICANT
VERSUS
RESPONDENTS

SHRI B.S. MAINEE

ADVOCATE FOR THE APPLICANT

SHRI P.S. MAHENDRU

ADVOCATE FOR THE RESPONDENTS

CORAM:

THE HON'BLE JUSTICE AMITAV BANERJI, CHAIRMAN

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

JUDGEMENT

(DELIVERED BY HON'BLE MR. I.K. RASGOTRA, MEMBER (A))

Shri Manohar Lal Chawla has challenged the order of Divisional Railway Manager, Northern Railway, Ferozepur No. 726-E/1293 Lok Adalat dated 29.9.1987 (page 10 of the paper book), intimating the applicant that death-cum-retirement gratuity (DCRG) has been paid to him after recovering Rs. 10,027.50 on account of shortage of bricks as reported in the Stock Verification Report, in the above application, filed under Section 19 of the Administrative Tribunals Act, 1985. The applicant retired from the post of Inspector of Works (grade Rs. 550-750) on attaining the age of superannuation w.e.f. 31.12.1984. Retirement dues which should have been paid to him immediately were paid after long delay as per details below:

	Amount	Date of payment
a) Leave encashment	Rs.11,200.00	July, 1986
b) i) DCRG paid	Rs. 8,762.50	July, 1986
ii) DCRG withheld	Rs.10,027.50	

	Rs.18,789.50	=====

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The applicant made several representations to seek payment of the withheld amount of D.C.R.G. and the interest for the period from the date of superannuation to the date of actual payment but without any avail. On 20.9.1986, respondent No.2 advised the applicant that an amount of Rs. 10,027.50 has been recovered from his D.C.R.G. on account of shortage of bricks as reported by the Senior Accounts Officer (Mechanical), Workshop, Amritsar and Assistant Engineer, Amritsar. The applicant attended the Pension Adalat held on 15.10.1987 to settle pensionary grievances but no satisfactory solution could be found to settle the amount withheld from the D.C.R.G. The applicant has contended that there was no shortage of any material including bricks, when he retired and made over the charge to his successor. The stock was verified by the Stock Verifier on 26.12.1984 and no shortage was recorded. Further the recovery from D.C.R.G. has been made without giving him reasonable opportunity to explain the shortage of store and is, therefore, violative of principles of natural justice.

By way of relief he has claimed the refund of the amount of Rs. 10,027.50 recovered from his D.C.R.G. with interest at 18 per cent p.a. from the date of retirement to the date of payment. Similar interest at the same rate has been claimed on the amount of gratuity already paid to him from January, 1985 till the date of payment. He has further claimed interest on the amount of leave encashment paid to him after a year and a half from the date of retirement.

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2. The crucial point that emerged for adjudication of the case, after hearing the learned counsel for both the parties on 10.4.1990 was whether any investigation/enquiry was pending on 31.12.1984 when the applicant retired from service. The Advocate, Shri P.S. Mahendru, who appeared for the respondents was directed to produce the record of the case to see if any charge-sheet was issued or reasonable opportunity was afforded to the applicant to explain the shortage of store when the investigation was done and before effecting the recovery of the amount in question. On 23.5.1990 when the case came up again, the learned counsel for the respondent submitted that he could not produce the record as the custodian of the relevant record was not available. On 20.8.1990, when the matter came up again the learned counsel expressed helplessness in producing the record and submitted that the matter may be decided on the basis of the material already placed before the Tribunal.

3. We have perused the record before us and considered the submissions made by Advocate Shri Maine for the applicant and Advocate Shri Mahendru, for the respondents. We do not find any evidence to show if any investigation or enquiry was pending against the applicant on the date of retirement of the applicant. No material has been produced before us to indicate that a reasonable opportunity was afforded to the applicant to explain the shortage of bricks before effecting recovery of Rs.10,027.50

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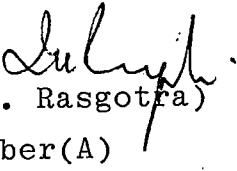
from his D.C.R.G. If the shortage was established in the stock verification conducted on 26.12.1984, a stock verification report must have been prepared and stock sheet signed by the stock holder (applicant) and the Stock Verifier. No such document has been placed before us.

4. In the facts and circumstances of the case, we have no alternative but to draw the conclusion that the action of the respondents to recover Rs. 10,027.50 from DCRG is arbitrary and in violation of the principles of natural justice. Accordingly, the order dated 29.9.1987 (page 10 of the paper book) issued by respondent No.2 is hereby set aside. We further order and direct that the respondents shall:-

- i) refund the amount of Rs. 10,027.50, recovered from the D.C.R.G.
- ii) pay interest at the rate of 12 per cent per annum from 1.1.1985 till the date of actual payment.
 - a) Rs. 10,027.50 amount of D.C.R.G.
 - b) Rs. 11,200 amount of leave encashment.
- iii) pay interest as applicable under the Rules from 1.1.1985 till the date of payment on the amount of Rs. 8,762.50 (past D.C.R.G. paid earlier).

The respondents are further directed to make payments as above within 30 days from the date of communication of this order.

There shall be no orders as to the costs.


(I.K. Rasgotra)

Member(A)


(Amitav Banerji)

Chairman