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CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH
NEW DELHI

O.A. NO. 673/1987

DATE OF DECISION : 6.8.1991

AMRIK SINGH

... APPLICANT

VS.

UNION OF INDIA & OTHERS

... RESPONDENTS

Shri N. D. Batra, Counsel for the Applicant.

Shri M. L. Verma, Counsel for the Respondents.

CORAM : HON'BLE SHRI G. SREEDHARAN NAIR, V.C. (J)

HON'BLE SHRI S. GURUSANKARAN, MEMBER (A)

.....

J U D G M E N T

G. Sreedharan Nair, V.C. (J) :

The applicant who retired on superannuation with effect from 31.3.1985 as Assistant Collector in the Customs and Central Excise Wing of the Indian Revenue Service has filed this application to quash the order dated 2.2.1987 directing the recovery of an amount of Rs.3,762.45 describing it as excess payment of House Rent Allowance (HRA) to the applicant during the period from December, 1981 to March, 1985. It is urged by the applicant that the demand is arbitrary, unfair, *and* unsubstantiated, and that despite repeated requests he has not been informed of the basis and the formula adopted in calculating the alleged excess payment. It is also stated that no opportunity was afforded to show cause against the proposed action and that no order whatsoever has been made and communicated to the applicant.

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2. In the reply filed on behalf of the respondents it is stated that the payment of H.R.A. was made incorrectly without verifying the full facts and that the proposal for recovery has been made on the basis of the information as available in the inquiry report.

3. This is a case where the proposal has been made for recovery of a fairly good amount from the applicant about two years after his retirement on superannuation. There is absolutely nothing on record to indicate as to how the quantification was arrived at. In the reply filed by the respondents, it is stated that a confidential inquiry was conducted and it is based on the report of the inquiry that the action has been taken. Though it is stated in para 6.8 of the reply that a copy of the detailed report of the inquiry and Government of India decision thereon is placed for kind perusal, neither the report nor even a copy thereof has been produced till date.

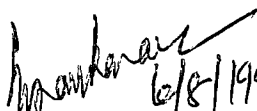
4. It emerges from the records that prior to the retirement of the applicant steps were being taken for the recovery, and in February, 1985 even a memorandum of charges was issued against the applicant for the initiation of departmental proceedings for misconduct on the imputation of drawing H.R.A. against the rules. However, no proceedings were conducted while the applicant was in service.

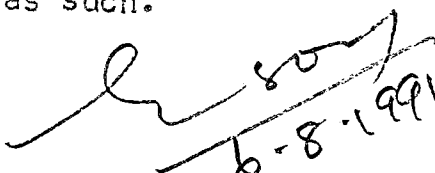
5. The impugned order proposing the recovery cannot be sustained since it has been issued without affording the applicant an opportunity of being heard. It is also to be pointed out that the respondents have not been able

to establish how the quantum was arrived at or in that process the applicant was associated.

6. It follows that the orders contained in the letter dated 2.2.1987 proposing the recovery on account of alleged excess payment of House Rent Allowance to the applicant cannot be sustained in law. It is accordingly quashed.

The application is disposed of as such.


(S. Gurusankaran)
Member (A)


(G. Sreedharan Nair)
Vice Chairman (J)