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Central Administrative Tribunal  
Principal Bench, New Delhi

O.A.359/91

New Delhi this the 19th Day of November, 1996.

Hon'ble Shri S.R. Adige, Member (A)  
Hon'ble Dr A. Vedavalli, Member (J)

Shri Raghbir Singh  
R/o RZ 170,  
Vishnu Garden, Extension 5, New Delhi.

Working under SEFO (LR)  
Ghaziabad, Delhi Division  
Northern Railway, New Delhi. ....Applicant

(By Advocate : Shri B.S. Oberoi)

Versus

1. General Manager,  
Northern Railway,  
New Delhi.
2. Divisional Railway Manager,  
Delhi Division, Northern Railway,  
State Entry Road,  
New Delhi. .... Respondents

(By Advocate : Shri P.S. Mahendru )

Order (Oral)

(Hon'ble Shri S.R. Adige, Member (A) )

The applicant is aggrieved by the respondets actionin revising his pension to Rs.1426/- p.m. instead of Rs.1581/ p.m. and adjusting a sum of Rs.19012/- against the gratuity payable to him on the ground that the earlier order, fixing his pension @ Rs.1581/- p.m. was wrong, and this excess payment of Rs.19,012/- had therefore to be recovered from him.

2. It is not denied that no Show Cause Notice was issued to the applicant before the recoveries were ordered.

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3. Respondentss counsel Shri Mahendru contends that the earlier fixation of the applicants pension @ Rs.1581/- p.m. was only provisional and under the circumstances no Show Cause Notice was necessary befor revising the applicants pension and ordering recoveries.

4. It is not denied that the recovery of Rs.1 9,112/- from the applicants terminal benefits has civil consequences and the Hon'ble Supreme Court in Nand Kishore Sharma & Ors Vs State of Bihar & Ors 1995 Supp (3)SCC 722, has held that the orders of recovery without affording an opportunity of being heard is violative of the Principles of Natural Justice.

5. In this connection, we also note that in a similar case bearing O.A.848/92 Davinder Singh Vs Union of India & Ors and connected cases decided on 5.7.94 it was held that recoveries ordered without giving show cause notice against the cannons of natural justice and, therefore, such orders had to be quashed. No materials have been shown to us to indicate that the said judgement in Davinder Singhs case (Supra) has not become final.

6. In the light of the what has been stated above, the orders of the respondents, unilaterally deducting Rs.19,012/- from the applicants terminal benefits without giving him

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an opportunity to show cause, cannot be sustained is, therefore, quashed and set aside.

7. This O.A. is disposed of with a direction to <sup>1 respondent</sup> ~~1 respondent~~ pass fresh orders fixing the applicants pension in accordance with law, after giving him an opportunity of showing cause against any action <sup>the</sup> ~~the~~ respondents propose to take. While doing so respondents should take into account the option excercised by the applicant on 3.11.86 which was brought to our notice during the course of hearing. This direction should be implemented within three months from the date of receipt of copy of the judgement. No costs.

A. Vedavalli

(Dr A. Vedavalli)  
Member (J)

S. R. Adige

(S. R. Adige)  
Member (A)

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