

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Hon'ble Mr. Justice RRK Trivedi, VC
Hon'ble Maj Gen KK Srivastava, AM

Dated : This the 03rd day of May 2002.

Original Application no. 1340 of 1996.

Guru Dutt Sharma, S/o late B.R. Sharma,
R/o 201 'N' Block Kedwai Nagar, Kanpur Nagar.

... Applicant

By Adv : Sri B.N. Singh

Versus

1. Union of India through the General Manager,
N. Rly., Baroda House, New Delhi.
2. Divisional Rail Manager, N. Rly.,
Allahabad.

... Respondents

By Adv : Sri A.K. Pandey

O R D E R

Hon'ble Mr. Justice RRK Trivedi, VC.

This OA under section 19 of AT Act, 1985, has been filed for direction to the respondents to bring on record the order by which basic pay of the applicant was reduced from 2600 to 2375 and quash the same. He has also prayed for a direction to the respondents to pay all the dues including security deposit of Rs. 18881/-.

2. The facts of the case are that the applicant was serving as Chief Parcel Supervisor at Kanpur Central. He was served with the memo of charge dated 19.1.1988 which was challenged in this Tribunal in OA 686/89. The said OA was disposed of by order dated 10.2.1993 directing the respondents to complete the enquiry within a period of 3 months otherwise pay the entire benefit alongwith 12%

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interest. The applicant retired on 31.1.1988. It is stated that the order of this Tribunal could not be complied and ultimately contempt application no. 182 of 1994 was filed, then the respondents paid the said amount. It is submitted that at the time of retirement the applicant was getting Rs. 2600/- per month, but his ^{actual} retired benefits were calculated @ Rs. 2375/- per month without disclosing how the salary of the applicant was reduced.

3. Resisting the claim of the applicant the respondents have filed counter affidavit. In para 5 of the counter affidavit it has been stated that the applicant went on long Leave Without Pay from 16.3.1967 to 1.1.1969 but ^{that} ~~his~~ fact was overlooked by mistake of the office and the applicant was given all usual increment for entire subsequent period untill retirement ie 31.1.1988. As soon as the aforesaid mistake was located at the time of final settlement the basic pay, increment and other dues were resettled and ^{were} ~~are~~ recalculated and as such Last Pay Drawn by the applicant at the scale of Rs. 2600/- had been reduced by Rs. 2375/-. However, it has not been stated that the applicant was given any show cause notice or opportunity of hearing before reducing the salary. It has also been stated that the applicant has been paid gratuity, leave encashment, security deposit etc and there ^{is now} ~~are~~ amount ~~—~~ out-standing against the respondents.

4. We have considered the facts and circumstances of the case and in our opinion the step taken by the respondents cannot be accepted. The alleged period of leave without pay was from 16.3.1967 to 1.1.1969. The


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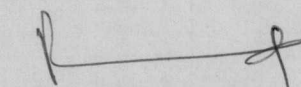
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applicant retired on 31.1.1988, the gap was of about 19 years. In the circumstances, if the respondents ~~were~~ thought ~~it~~ justified to reduce the salary ~~a~~ show cause notice or a hearing to the applicant ought to have been given and a reasoned order was required ~~to~~ be passed as the action ~~could~~ ^{may} entail ^a serious civil consequences ~~against~~ the applicant. The legal position in this regard is well settled. In our opinion, the applicant is entitled for the relief.

5. The OA is accordingly allowed. The respondents are directed to calculate the pension and other retiral benefits ^{on basis of} ~~during~~ last pay drawn as Rs. 2600/- per month. All the amount for which the applicant is entitled shall be paid to him within a period of four months from the date copy of this order is filed. However, liberty is given to the respondents to pass a fresh reasoned order after giving show cause notice to the applicant in accordance with law.

6. There shall be no order as to costs.


Member (A)


Vice-Chairman

/pc/