

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA  
O.A. No. 050/00401/2020**

Date of Order: 22<sup>nd</sup> February, 2021

**C O R A M**

**HON'BLE MR M.C. VERMA, MEMBER [J]  
HON'BLE MR. SUNIL KUMAR SINHA, MEMBER [A]**

Kumud Prasad S/o Late Ram Lakhan Prasad Yadav, Ex Accounts Assistant under the Financial Advisor & Chief Accounts Officer, (Traffic Accounts), Of East Central Railway, Hajipur, District – Vaishali (Bihar) – PIN-844101, and resident of Doman Bhagat Lane, Kadam Kuan Near Shiv Mandir, Patna – 800003.

..... Applicant.

By Advocate :- Shri Sunil Kumar.

-Versus-

1. The Union of India through the Secretary, Railway Board, Ministry of Rail Bhawan, New Delhi – 110001.
2. The General Manager, East Central Railway, Hajipur, District – Vaishali (Bihar) – PIN-844101.
3. The Financial Advisor & Chief Accounts Officer, East Central Railway, Hajipur, District – Vaishali (Bihar) – PIN-844101.
4. The Financial Advisor & Chief Accounts Officer, (Traffic Accounts), of East Central Railway, Hajipur, District – Vaishali (Bihar)- PIN-844101.

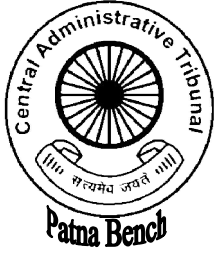
..... Respondents.

By Advocate :- Dr. Shiv Kumar.

**ORDER (O R A L)  
Per M.C. Verma, M[J]**

1. Being aggrieved by the act of the respondents affecting recovery of the of amount of Rs.1,64,317/- from his DCRG amount, as the amount of excess payment from year 2001 to December 2019 under salary head, instant O.A. has been preferred by the applicant, an retires Accounts Assistant of East Central Railway.

2. The case of the applicant, in short is that he joined Railway service on 26.03.1984 and after serving more than 35 years superannuated on 31.12.2019 from the post of Accounts Assistant.



That on the eve of his retirement, an amount of Rs.1, 64,317/- was deducted from his gratuity. That it was done without giving any reason or show cause notice and upon inquiry he was verbally told that in year 2001 increment was given to him but it was given and hence was the wrong overpayment of salary. That excess payment in salary has been recovered.



3. In reply respondents have taken the stand that on 15.01.2001 applicant was given first promotion to the post of Junior Accounts Assistant (in the pay scale of Rs.4000-6000 with GP Rs.2800), second promotion was granted to him on 30.11.2006 and the third MACP was granted to him on 26.03.2017. That when he was granted promotion in Junior Accounts Assistant, the pay fixation was wrongly done and that his basic pay instead of Rs.4625/- w.e.f. 01.03.2001 should have been Rs.4500/- and therefore, excess amount of Rs.1,64,159/- has been recovered due to re-fixation..

4. Learned counsel Shri Sunil Kumar while pressing the the O.A. submits that it is wrong that in year 2001 pay of the applicant was not fixed correctly or even if his pay was fixed incorrectly, it was the fault on the part of the respondents. He that it is settled principle of law that over payment under head of salary, if is paid even by mistake, it cannot be recovered after such long time and that too from a retired grade C employee. He placed reliance on judgment of Hon'ble Supreme Court in the case of *State of Punjab & Ors. Vs Rafiq Masih reported in (2014) 8 SCC 883* and also placed reliance upon RBE No.72/2016 dated 22.06.2016.

5. Learned counsel for respondents, Dr. Shiv Kumar submits that recovery was made as per pension section letter dated 27.11.2019 and that pay fixation in year 2001 was wrongly done and hence it was incumbent upon the respondents to rectify the mistake and to recover the amount.

6. Considered the submissions. As far instant case relates, it is evident that recovery relates to span of period starting from year 2001. The recovery was affected in year 2019. After decision in *Rafiq Masih;s* case (cited supra) it is settled proposition that the recovery of excess payment in salary from Group 'C' or Group 'D' employee is not permissible if it is more than five years old or if the employee has retired. It is not disputed that applicant is Class 'C' employee and the recovery has been affected from his retiral dues, means to say that applicant had retired. Applicant's case is covered by decision rendered in *Rafiq Masih;s* case(cited supra). The recovery was not permissible. Hence, the recovery, being impermissible Respondents are directed to refund back the amount recovered from DCRG of applicant within six weeks from the date of receipt of this order with permissible interest rate. O.A. stands disposed of accordingly. No costs.

7. Pending MA, if any, also stand disposed of.

Sd/-  
[Sunil Kumar Sinha]  
Member [A]

sks/-

Sd/-  
[M.C. Verma]  
Member [J]

