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Reserved
Judgment

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Transfer application No. 732 of 1986.

M.P.Menon

..... plaintiff-
applicant.

Versus

Union of India and another

..... Defendants-
respondents.

Hon'ble D.S.Misra-A.M.
Hon'ble G.S.Sharma-J.M.

(Delivered by Hon'ble D.S.Misra)

This is an original suit (no. 417/1982) which was filed in the court of Munsif Ist Jhansi. It has come to us on transfer under Section 29 of the Administrative Tribunals Act 1985.

2. The plaintiff's case is that while working as Loco Store Keeper in the Loco Shed under the Divisional Railway Manager(hereinafter referred to as defendant no.2), he retired from the post on 1.8.1978 and opted for pension and the same was fixed at Rs.384/80 P.. He opted for refixation of his death cum retirement gratuity in terms of Railway Board's letter no. PC/III/79/DIP/1 of 11.6.1979. The plaintiff's grievance is that even though the railway administration revised his pension in July,1980, but they did not pay him the difference of DCRG amounting to Rs.3071-25 P.. It is further alleged that the defendant no.2 had further illegally deducted an amount of Rs.46.75 P. from the arrears of the revised pension of the plaintiff without any reason. The plaintiff has claimed a sum of Rs.3118/- as principal amount and Rs.717/- as interest thereon at the rate of Rs.12/- per cent per annum.

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2. The defendants, in their written statement, admitted the revision of the pension and DCRG amount of the plaintiff but stated that a sum of Rs.3118/- was outstanding against the plaintiff due to shortage and it was recovered from DCRG and Pension amount, payable to him. The defendants denied that the above recovery was illegal, malafide, arbitrary and without jurisdiction. The defendants have contested the plaintiff's claim.

3. The plaintiff has filed clearance certificate dated 3.8.1978 (Paper no.15/A) issued by the Loco Store Keeper Jhansi in which it was clearly stated that the plaintiff, who retired on 1.8.1978 had deposited all personal stocks and there was nothing due or any debits pending against him. The defendants took a long time to file written statement before learned Munsif, Jhansi, who allowed costs to the plaintiff. Plaintiff filed copy of the letter dated 15.12.1978 (paper no.37/C) from the Senior Divisional Mechanical Engineer(P) Jhansi to S M E, Bombay VT, from which it appears that some inquiry was held in the matter of shortage of non-ferrous scrap costing Rs.5428/- and it was stated that no person could be held responsible for the above shortage due to lack of materialistic proof. The Sr. D.M.E., therefore, had sought the sanction to write off the amount of Rs.5428/- being the cost of NF scrap to close the case.

5. The defendants filed various papers concerning shortage of NF material costing Rs.5428/-. Most of these letters bear the date after the date of retirement of the plaintiff. A copy of the findings of the inquiry committee regarding shortage in Wagon no. SC 19432 CRT has been filed in which it is stated that LSK Jhansi was responsible for the loss.

6. We have heard the arguments of the learned counsel for the parties. The contention of the learned counsel for the plaintiff is that the plaintiff was never asked to explain his

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conduct during the inquiry or any time before making deductions from his DCRG or from the arrears of his pension, and therefore, the deduction made by the defendants was illegal, and arbitrary.

Learned counsel for the defendants merely stated that the inquiry report had found the plaintiff responsible for shortage in the store and therefore, the amount was recovered out of the amount payable to the plaintiff. It is an established principle that no cut can be made from the amount of pension and gratuity of an officer without giving a reasonable opportunity for making his defence. In K.R.Erry Vs. State of Punjab, ILR 1967 P and H, 278 it was held by the Punjab and Haryana High Court that the State Government could not have applied a cut in the pension and gratuity of the officers without giving reasonable opportunity to make their defence. In the present case also no such opportunity was given to the plaintiff and therefore, the claim of the plaintiff for payment of the amount deducted from his DCRG and pension amounting to Rs.3118/- deserves to be allowed and it has to be paid by the defendants to the plaintiff.

7. The plaintiff has also claimed interest at the rate of 12 per cent on the above mentioned amount w.e.f. from 6.1.1981. In State of Kerala and others Vs. M. Padmanabhan Nair reported in A.I.R. 1985 SC 356, Hon'ble the Supreme Court has held;

"Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but are valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the correct market rate till actual payment"

Their Lordships have also observed that it would not be unreasonable to direct that the liability to pay penal interest on these dues at the correct market rate should commence at the expiry of two months from the date of retirement. In the present case, the plaintiff has claimed interest w.e.f. from 6.1.1981, which is said to be the date on which two months' statutory period expires. The plaintiff is accordingly entitled to the interest claimed and we

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direct the defendants to pay Rs.3118/- deducted from his DCRG and pension to the plaintiff together with interest thereon at the rate of 12 per cent w.e.f. from 6.1.1981 to the date of actual payment.

8. The suit is decreed as mentioned above with costs, which we fix at Rs.600/-.

Bhinder
Member-A 12.12.86

Indrajeet
Member-J 12/12/86

Jsingh/12.12.1986.