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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

Registration O.A. No. 444 of 1987

P.B. Das Gupta

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Applicant

Vs.

Union of India & Others

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Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant who retired as Station Master, N.E. Railway on 31.7.82 has approached the Tribunal praying that the respondents may be directed to pay the applicant the dues which has been mentioned in Annexure-1 to the application for Rs. 20680.50/- together with the up to date interest at the rate of 10% till the date of payment. From the pleadings of the parties it appears that the applicant was given the basic pay of Rs. 640/- per month and the same was paid till 15.7.82, but the said basic pay was reduced with hearing the applicant and without giving him any show cause notice to Rs. 530/- and from July 16 to July 31 1982 he was paid @ Rs. 530/- per month. As the applicant's basic pay/reduced in this manner consequently his pensionary benefit was also fixed on that basis, and even thereafter a recovery of amount Rs. 1020.15 was made from him. It was said that his basic pay was wrongly calculated as Rs. 640/- and it should have been only Rs. 530/- and the extra amount which the applicant had received has been recovered.

2. The respondents have opposed the application and have stated that the recovery has been correctly made and the basic pay of the applicant in-fact was not Rs. 640/- and the applicant was not entitled to the said basic pay even in view of the fact that he was undergoing punishment of stoppage of increment for 6 years and 9 months, and as such his basic pay was wrongly fixed and when the detection was made the mistake was corrected. It has been stated by the respondents that the basic pay of the applicant was fixed at

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Rs.485/- on 1.1.73 in scale of Rs.425-640/- and the normal date of increment in that scale was due on 1.4.73. Due to imposition of penalty of stoppage of increment for 6 months, he was given increment on 1.10.73 and his pay fixed at Rs.500/-. His subsequent increment for the year 1974 and 1975 were given on due date i.e. 1st April, 1974 and 1st April, 1975 respectively, and his pay on 1.4.75 was fixed at Rs.530/-. Thereafter he was not due to draw his increment in the years of 1976 to 1982 due to his undergoing punishment of stoppage of increment for 6 years, 9 months. He could have became free from punishment on 1.1.83 but had he remained in service on that date. Some parts of this fact stated by the respondents have disputed by the applicant who in clear and categorical language has stated that the respondents have deprived him from his basic pay and other emoluments taking the view as if he has continuously under punishment for the period of 6 years whereas during this period for several months he was not under punishment and whenever punishment was awarded he was entitled to increment. Even that has not been given and the calculation which has been made is absolutely incorrect. It has been stated by the applicant that there was no punishment on 29.5.75. The next punishment was on 7.11.75 and that is why the rate of pay of Rs.640/- was paid to him. The withholding of increment for three years came to an end on 8.11.78 when the applicant was under no punishment. The next punishment was given to him on 25.8.81 withholding the increment for 3 months. The punishment dated 24.12.81 withholding the increment for six months came to an end on 25.6.82 and according to the applicant there could not be any objection of the rate of pay of Rs.640/- after 26.6.82 as he was not under punishment from 26.6.82 upto 31st July, 1982.

3. It appears that the calculations have not been properly made and the entire period has been taken as under punishment. If there was a mistake on the part of the respondents to calculate the applicant's basic pay as Rs.640/- and pay him accordingly. It is a settled principle of law that no one is to suffer because of the mistakes and laches on the part of the government. Here in this case the applicant who was in service was given a pay scale which normally

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he was to get, and there was not occasion for the Government even otherwise to recover the same. Accordingly this application deserves to be allowed in part and the respondents are directed to refund the said amount of Rs.1980/- to the applicant within a period of 3 months from the date of communication of this order. The respondents are further directed to re-calculate the applicant's basic pay and the pensionary benefits in the light of the period during which he was free from punishment and this calculation shall also be made within a period of 3 months. If after calculation it is found that the applicant is entitled for more amount the same shall also be paid to him including the pension, funds. The arrears shall also be paid to the applicant within 3 months alongwith 10% interest. In case after calculation it is found that nothing is due to the applicant, this part of the relief which has been claimed by the applicant is rejected. No order as to costs.

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Member (A)

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Vice-Chairman.

17th January, 1992, Alld.

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