

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

Allahabad : Dated this 19th day of December, 2000
Original Application No.1332 of 1995

CORAM :-

Hon'ble Mr. Rafiquddin, J.M.

Hon'ble Mr. S. Biswas, A.M.

Uma Kant Srivastava
S/o Late Jagat Narain Srivastava,
Retired Head Parcel Clerk,
Etawah, Northern Railway,
Allahabad Division.
(Sri S.C. Banarjee, Advocate)

. Applicant

Versus

1. Union of India
Through General Manager,
Northern Railway, New Delhi.
2. Divisional Railway Manager,
Northern Railway, Allahabad.
3. Sr. Divisional Personnel Officer,
Northern Railway, Allahabad.

(Sri A.V. Srivastava, Advocate)

. Respondents

ORDER (O r a l)

By Hon'ble Mr. Rafiquddin, J.M.

The applicant ^{who} retired as a Head Parcel Clerk on 30-11-1995, under the jurisdiction of D.R.M. Northern Railway, Allahabad, seeks a direction to the respondent nos.2 and 3 for restoring his pay to Rs.1800/- p.m. which he was drawing since February, 1995 and to pay him difference of emoluments which have been deducted from his pay. The applicant also seeks a direction to the respondents for payment of pension and commutation of

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pension by recalculating average emoluments of the applicant on Rs.1800/- p.m. and also gratuity and leave encashment on the last pay drawn @Rs.1800/- p.m.

2. The applicant alleges that as per the service certificate dated 30-11-1995 issued by the Senior Divisional Personnel Officer, Northern Railway, Allahabad (Respondent no.3) on the retirement of the applicant the Last Pay of the applicant was shown as Rs.1760/-. whereas the applicant was drawing salary @Rs.1800/- p.m. as per the Pay Slip for the month of October, 1995. The applicant made a representation against this action of the respondents on 7-11-1995 when he received the computerised pay slip for the month of October, 1995 in which his pay was reduced to Rs.1680/-. The applicant claims that this action of the respondents is arbitrary and in contravention of Pension Rules.

3. We heard counsel for both sides and perused the record carefully.

4. Learned counsel for the respondents has contended that the applicant was awarded punishment withholding increment temporarily for one year vide punishment notice dated 12-2-1992 and further WIT for one year vide punishment notice dated 23-4-1992 and another WIT for two years vide punishment notice dated 25-5-1993. According to the learned counsel for the respondents, the aforesaid punishments were to be imposed one after another in terms of the Railway Board's letter No.52/8/26-VII(D&A), dated 10-2-1997 at the time of final settlement of retirement benefit. This position was checked at the time of preparing pension papers of the applicant. Accordingly the pay of the applicant was reduced from Rs.1800/- to Rs.1760 w.e.f. 1-1-1995. The applicant retired on 30-11-1995 on the last pay i.e. Rs.1760/-.

5. It is clear from the arguments of the learned

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counsel for the respondents that the punishment of withholding of increment was imposed only when the pension papers of the applicant were effective. It is also an admitted position that show cause notice was ^{not} issued to the applicant before taking this action by the respondents. Since action of the respondents in effecting the punishment order and reducing the pay of the applicant adversely affects pensionary benefits, we find that the action of the applicant is arbitrary and against the principles of natural justice. Since the applicant has already retired, we ^{do not} find it desirable to remand the case to the respondents for issuing show cause notice for reducing the pay.

6. The OA is accordingly allowed and the respondents are directed to recalculate the pension and other benefits treating the pay of the applicant as Rs.1800/- from 1.1.1995. This exercise shall be completed within six months from the date of communication of this order. There shall be no order as to costs.

S. B. S. Member (A)

Rafiquddin Member (J)

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