

OPEN COURT  
CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 628 of 2003

ALLAHABAD THIS THE 30<sup>th</sup> DAY OF APRIL 2009.

**Hon'ble Mr. Justice A.K. Yog, Member (J)**

Zahid Khan S/o Abid Khan  
Aged about 50 years, R/o  
Rajeev Colony (Near Railway Colony)  
Piliphit (Dead).

- 1/1 Smt. Salma Begum W/o Late Zahid Khan, Aged about 52 years,
- 1/2 Mohd Shahid Khan S/o Late Zahid Khan, aged about 25 years,
- 1/3 Mohd. Mazid Khan, S/o Late Zahid Khan, aged about 31 years,
- 1/4 Mohd. Sazid Khan S/o Late Zahid Khan, kaged about 29 years,
- 1/5 Mohd. Rashid Khan, S/o Late Zahid Khan aged about 23 years.

All residents of Rajeev Colony (Verha)      Bangali Ke Ghar Ke  
Peechey, Pilibhit.

.....Applicants

By Advocate: Sudama Ram

Versus

- 1. Union of India Through the General Manager,  
N.E. Railway, Gorakhpur.
- 2. Divisional railway Manager,  
N.E. Railway, Izatnagar, District  
Bareilly.
- 3. Senior Divisional Personal Officer,  
North Eastern Railway Izatnagar,  
Bareilly.
- 4. Senior Divisional Accounts Officer,  
North-Eastern Railway, Izatnagar.

.....Respondents

By Advocate: Shri K.P. Singh



**ORDER**

Hon'ble Mr. Justice A.K.Yog, Member (Judicial)

Heard Shri G.P.Singh learned counsel for applicant. None appears for respondents despite waiting more than one hour. Perused all the documents on record.

2. The applicant Zahid Khan was an employee of respondents' department/undertaking. He retired from service voluntarily and claimed pension in accordance with law. The alleged excess payment recovered from salary of the applicant and his pay was reduced and lesser amount of pension was paid to him as normal pay was restored claiming personal pay and consequently he urged that he was entitled for revised Pension. That his pension to be calculated on the basis of normal pay.

3. His legal representatives have been brought on record. In the O.A. itself, it is stated that the applicant filed representation dated 27.04.2003 Annexure A-5/compilation to. The relief claimed in the OA read:

**RELIEF SHOUGHT**

***"In view of the facts stated above, the applicant prays for following reliefs:-***

***(a). The Hon'ble Tribunal may be pleased to direct the respondents to revise the pension order of the applicant calculating it on the pay which was restored by this Hon'ble Tribunal by the orders given in the aforesaid Original Application and C.E.P. and allow all pensionary benefits with effect from 17.10.2000 with its arrears with 18%***

*As,*

**interest on the delayed payment on such arrears.**

- (b). Any othe order, direction or writ which the Hon'ble Tribunal may deem fit and proper in the circumstances of the case, may also be issued.**
- (c). Cost of the application may also be awarded."**

In para 4.7 of the OA applicant applicants to have submitted representation dated 27.04.2003.

4. The respondents filed counter affidavit. Para 20 of it reads:

**"That in reply to the contents of para 4.7 of the OA. It is submitted that no such representation dated 27.4.2003 (i.e annexure 5 of the original application as stated by the applicant, had been submitted had been received in the office of respondent No. 2. As regard revision of pension the same has already been explained in the preceding paragraphs that no ground is applicable for revision of the pension of the applicant. As regard grant of his increment the same has been even as applicable fromn the due date which is given below:-**

<b>Date</b>	<b>Pay &amp; increment granted</b>
<b>01.01.96</b>	<b>4590+346 PP</b>
<b>1.1.96</b>	<b>4590+80 1<sup>st</sup> stagnation + 266 PP</b>
<b>1.1.2000</b>	<b>4590+80 1<sup>st</sup> + 80 2<sup>nd</sup> stag. + 186</b>

**On the basis of above pay and two stagnation increments the retirement benefits has been given at the time of voluntary retirement counting his last pay as Rs. 4590+80+80 =4750."**

5. Filing of representation has not been denied. There is no averment that grievance of the applicant was considered or decision communicated to the Applicant or his Legal Representatives.

6. Learned Counsel for the Respondents refers to Para 18 of the counter which reads :-

**"That in reply to the contents of para 4.5 of original Application it is submitted that Shri Mohd Naseem Khan and 42 others including the applicant, filed an O.A. No.1006/2002 before this court Hon'ble**

**tribunal and prayed the same relief as in case of OA No. 508/2000. The name of the applicant Shri Zahid Khan is at Sl. No. 24 of the O.A. the Hon'ble tribunal, Allahabad passed the orders in O.A. No. 1006/2002 as follows:-**

**"The present applicants are also entitled for the similar relief.**

**The OA is accordingly disposed of on the same terms and conditions as contained in order-dated 15.05.2001 quoted above. There will be no order as to costs".**

**In compliance of the aforesaid order of the Hon'ble Tribunal the respondent No.2 issued authority letter dated 2/07.11.2002 in respect of the 43 applicants for stoppage of recovery of over payment of pay on account of fixation of pay as well as payment of the amount already recovered. Since the applicant had taken voluntary retirement on 17.10.2000 as such a memorandum dated 3.12.2000 for payment of the amount of Rs. 7000/= (which was earlier recovered from his guilty on account of over payment) was also issued. The Photocopies of the said letter dated 2/7.11.2002 and memorandum dated 3.12.2002 are annexed herewith marked as Annexure VI & VII to this counter."**

7. In view of admitted position (on record), I direct the applicant (LRS) to file a comprehensive/parawise representation (if so advised) alongwith certified copy of this order and a copy of this O.A. (with all annexures) within six weeks before respondent No. 2 Divisional Railway Manager, N.E. Railway, Izatnagar, District Bareilly and said authority shall (provided such representation is filed as stipulated above), decide the same in accordance with law by passing a speaking order within two months of receipt of the said representation. Decision taken shall be communicate forthwith to the applicants/legal representatives. Respondents shall supply copies of

*[Handwritten signature]*

documents referred in the counter reply/affidavit to the within 3 weeks of the request received (if any) by the respondents in that respect.

8. O.A. stands disposed of finally subject to above observation/directions. No order as to cost.

  
Judicial Member

Sh/-