

(Reserved)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

ALLAHABAD this the 19th day of September 2012.

HON'BLE MS. JAYATI CHANDRA, MEMBER -A

ORIGINAL APPLICATION NO. 224 OF 2006

Shri M.L. Yadav, son of Shri Badal Yadav, Resident of Ballia South,
Post Office Bhagalpur, District Deoria.

.....Applicant.

VER S U S

1. Union of India through its General Manager, North East Railway, Gorakhpur.
2. Divisiona Railway Manager (P), North East Railway, Varanasi.

.....Respondents

Advocate for the applicant: Shri V.K. Srivastava

Advocate for the Respondents : Shri P. Mathur

ORDER

The instant O.A. has been filed under section 19 of Administrative Tribunals Act, 1985 seeking to quash the order dated 2.3.2005 (Annexure A-7) and to issue order or direction in the nature of mandamus to the respondents to pay amount including bonus with interest to the applicant as claimed in his representations dated 17.11.2003 and 11.4.2005.

2. The applicant retired from the post of Assistant Station Master at Fariha Railway Station on 31.07.2002. Copy of retirement certificate is annexed as Annexure A-1 in which he is shown to have been drawing a salary of Rs.6725/-. But his

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pension has been fixed at Rs.6250/-. He has been issued a statement of payment and deduction etc. at the time of retirement by memo dated 31.7.2002 (Annexure A-2) in which he has been shown as liable for recovery of Rs.6367/- which has been paid in excess and against of festival advance. An amount of Rs. 158968/- has been withheld against unauthorized retention of Government house and commercial clearance. He is shown to have 'o' claim under the heads leave encashment and composite grant. The applicant has challenged the amounts on various grounds of miscalculation, advances not recoverable and withheld, unfair reduction of dues etc. He has also challenged the non-payment of leave encashment and composite grants due to him. He gave a representation against such arbitrary deduction of Rs. 795/- through A-3. He also gave representation dated 17.11.2003 (Annexure A-5). As no action was taken, he filed O.A. No. 1490/04, which was disposed of with the direction to the respondents to decide his case through reasoned and speaking order. In Compliance of aforementioned order, the respondents have passed the impugned order dated 2.3.2005 (Annexure A-7). The applicant has given a representation challenging the above order dated 11.4.2005 (Annexure A-8). He has further given his representation dated 19.7.2005 (Annexure A-9) regarding payment of bonus.

3. In their counter affidavit, the respondents have stated that applicant retired on 31.07.2002. His pension has been rightly fixed at Rs.6250/- on the basis of last 10 months' salary drawn by him. His DCRG amounts to Rs.1,65,335/- out of which adjustment of the following dues are to be made: -

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A.	<i>LWP Rs.5467/-</i>
B.	<i>Festival allowances Rs.900/-</i>
C.	<i>Damage rent Rs.23,978/-</i>
D.	<i>Electricity charges Rs.1099/-</i>
E.	<i>Commercial Debit Rs.2094/-</i>
	<i>Total Rs.33,538.</i>

Respondents have enclosed the relevant instructions and calculation sheet (Annexure CA-1 and CA-2). They have also defended their decision regarding leave encashment and composite grant. They have also said that contrary to the averment of the applicant, no recovery of Rs.795/- has been made and there has been no double recovery of any amount.

4. In the rejoinder affidavit, the applicant has stated that deduction as shown under certain heads as clarified in the order dated 31.7.2002 amounting to Rs. 33538/- by respondent's own admission, therefore, on own showing in counter reply the excess deduction are Rs. 1,31,797/-. He has also averred that the account fixed as arrear of rent is not tenable.

5. I have heard counsel for the parties and seen the records. Issues to be determined here are:-

- (i) The fixation of pension
- (ii) Justification for the amounts held as recoverable and withheld
- (iii) Payment or otherwise of certain dues e.g. leave encashment, composite grant, bonus etc.

On the question of fixation pension, the applicant has affixed few salary slips (Annexure A-4). It is seen from his salary slips of June 2001, July 2001 and August 2001- at that period his salary

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was Rs.6500/-. In May 2002 his salary was Rs.6550/- and in June 2002 the salary was Rs.6725/-. The amount shown in his retirement certificate as being drawn on the date of retirement Rs.6725/-. As he has not enclosed pay slips of 10 months preceding his retirement, the correctness of amount of pension cannot be determined.

6. On the issue of recoveries, the amount withheld is of Rs.158968/- (Annexure A-2) does not add to detailed dues which is Rs.33538/-. In the impugned order dated 2.3.2005, the respondents have shown no detailed, justification for the balance but have mostly dismissed the claims of the applicant by saying that they are not admissible without disclosing details of calculation, mentioning time periods, and the rules applicable.

7. They have merely stated that in the month of February 2002 and April 2001, certain amounts were shown to have been due from the applicant without giving full details of recovery. In similar way, I find that representation is mostly in the nature of denial of claim without full justification.

8. The respondents have enclosed copies of Railway Rules regarding accommodation (CA-1) and schedule of rents (CA-II) without disclosing the entire calculation sheet. In matters of leave encashment, composite grants etc. they have simply quoted from their impugned order which itself is summary in nature.

9. For the above reasons, the O.A. is ^{partly. I. U.} allowed. Impugned order dated 2.3.2005 (Annexure A 7) is quashed. The applicant is directed to make fresh representation item-wise to the respondents

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within a period of 15 days of receipt of this order. The respondents will thereafter decide each item based on full documentation within the four-corner of the applicable Rules. This exercise may be completed within a period of 3 months from the date of receipt of fresh representation from the applicant. No costs.

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Member (A)

Manish/-