

Recovery from  
DCPA Payment (No)

(9)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

O.A. No. 349 of 1990  
~~XXXXXX~~

DATE OF DECISION 18.2.1992

Shri Baboo Nathu Makwana Petitioner

Shri R.A. Vyas Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri R.M. Vin Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.Y. Priolkar : Member (A)

The Hon'ble Mr. R.C. Bhatt : Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
  2. To be referred to the Reporter or not? *No*
  3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
  4. Whether it needs to be circulated to other Benches of the Tribunal? *No*
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(S)

Shri Baboo Nathu Makwana,  
C/o R.A. Vyas, Advocate  
'Ashirvad' Ist floor,  
Chittakhana Chowk,  
JUNAGADH (Guj.)

: Applicant

(Advocate : R.A. Vyas)

VS.

1. The General Manager,  
Headquarter Officer of W.Rly.,  
Churchgate,  
BOMBAY<sup>3</sup> 20.

2. The Divisional Railway Manager,  
Divisional Railway Officer,  
Bhavnagar Para (W.Rly.)

3. Inspector of Works,  
Near Railway Station,  
JUNAGADH (W.Rly.)

: Respondents

(Advocate : R.M. Vin)

O R A L - O R D E R

O.A. No.349 of 1990

Date : 18.2.1992

Per : Hon'ble Shri M.Y. Priolkar

: Member (A)

The grievance of the applicant in this case is that, although he retired from railway service on 29.9.1987, deduction of Rs.3,290/- has been made from the amount of D.C.R.G. payable to him and still the payment of commutation amount of pension has not been sanctioned.

2. The applicant is a Class IV employee and had joined Junagadh Railway in the year 1941. Vide letter dated 15.7.1987 he was informed by his immediate superior that he will be due for retirement on 31.10.1987. However, by another letter dated 29.9.1987, he was retired with immediate effect informing him that as per letter dated

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28.9.1987 received from Divisional Railway Manager (E)'s office, his date of birth is 31.10.1928.

3. According to the respondents, the applicant was due for retirement ~~as~~ under the normal rules, on attaining 58 years of age, on 31.10.1986 but due to administrative error he was continued in service upto 29.9.1987 i.e., for a period of ten months beyond the age of 58 years. According to the respondents, only the amount of Rs.1500/- has been withheld from the retirement due ~~to~~ of the applicant and is kept as deposited amount against any over payment, as he continued in Railway Service beyond the age of 58 years and this matter is pending before the Railway Board for deciding the period of over-stay/in service beyond the age of 58 years. Admittedly, the applicant is being paid only the provisional pension and the commutation amount is still to be calculated and paid.

4. The applicant is an illiterate Class IV employee and it is not the case of the respondents that the applicant has wilfully suppressed any material information or that he was made aware that he was due to retire on attaining the age of 58 years on 31.10.1986 but still he refused to hand over the charge and continued in service. In fact he was specifically informed by letter


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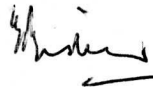
dated 15.7.1987 that he was due to retire only on 31.10.1987. His over-stay<sup>in</sup> in service appears to be exclusively because of neglect or error on the part of the respondents and cannot be even partly attributed to the applicant, and the applicant cannot evidently be therefore penalised for the fault of the respondents. According to the learned advocate for the applicant, the applicant even vacated the quarter in his occupation within the permissible period of three months from the date of his retirement. In these circumstances we do not find any justification why any amount legally due and payable to the applicant should be withheld for such a long period even after his retirement. It looks strange to us that even the Railway Board to which the case appears to have been referred should not have decided the question of his extension in service even after a period of over four years after he was relieved on retirement.

5. The applicant therefore deserves to succeed in this application. The respondents are directed to settle up the retirement benefits of the applicant in full on the basis that his services were extended upto 29.9.1987. This period of service even beyond the due date of retirement should be counted as qualifying service for pension and all other retirement benefits, including commutation. All these payments for differential D.C.R.G. and pension

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taking the date of retirement as 29.9.1987, should be calculated and payment made within the period of four months from the date of receipt of the copy of this order. There shall be no order as to costs. We do not however find <sup>sufficient</sup> ~~any~~ justification for the claim of interest on these unpaid amounts and the prayer in this regard of the applicant is rejected.

  
(R.C. Bhatt)  
Member (J)

  
(M. Y. Priolkar)  
Member (A)

\*Ani.