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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: C U T T A C K.

O.A. NO.193 OF 1987

Date of decision - November 29, 1989.

V. Kameswar Rao,
Son of late Atchanna
Retired Driver Grade-'A',
S.E.Railway, Khurda Road,
District-Puri.

... Applicant

Versus.

1. Union of India, represented through
its General Manager, S.E.Railway,
Garden Reach, Calcutta- 43.
2. Divisional Personnel Officer,
S.E.Railway, At/P.O.Khurda Road,
District-Puri.
3. Divisional Railway Manager,
S.E.Railway, At/P.O.Khurda Road,
District-Puri.
4. S. Venkata Rao,
Driver 'A', Special Loco Division,
S.E.Railway, At/P.O.Khurda Road,
District-Puri.

.... Respondents

For Applicant - Mr. Pradeep Mohanty, B.P.Ray and
H.M. Dhal.

For Respondents - Mr. Ashok Mohanty, Standing Counsel
for Railways.

C O R A M :

THE HONOURABLE MR. B.R. PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. N. SEN GUPTA, MEMBER (JUDICIAL)

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1. Whether reporters of local papers may be allowed to
see the judgment ? Yes.
 2. To be referred to the Reporters or not ? No.
 3. Whether Their Lordships wish to see the fair copy
of the judgment ? Yes.

J U D G M E N T.

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N. SEN GUPTA, MEMBER (JUDICIAL). In this application, the applicant has prayed for two reliefs, namely, for declaring him as senior to the respondents No.4 and 5 and for payment of arrear salary and other benefits and for refund of Rs.5,643.58 paise realised from his death-cum-retirement gratuity (D.C.R.G.).

2. It is unnecessary to state all the facts averred in the application giving rise to this case, it would be sufficient to indicate that the applicant after having had some promotions was working as Driver Grade 'A'. There was a railway general strike in which the applicant took part and he had been compulsorily retired for having participated in the strike. Subsequently, the railway administration reviewed the cases of all those who joined the strike and passed an order reinstating all of them including the applicant and treating the period spent on strike as on duty. The applicant retired on superannuation on 1.1.1983. After his retirement, he was entitled to pensionary benefits including the D.C.R.G. By Annexure-2 dated 1.10.1983 an amount of Rs.5,643.58 was ~~deducted~~ ^{deducted} as over payment of pay and allowances. Since the applicant has retired in the meantime, he is not pressing for the relief relating to seniority and ~~consequential~~ ^{consequential} benefits.

3. In the counter, the Railway Administration has taken the plea that some over payments were made and the calculation about the over-payments were intimated to the applicant under a letter, a copy of which is annexed as Annexure-7 i.e. a reply to the Lawyer's notice sent by the applicant to the Administration. Since the other matters are not now in dispute, the other allegations in the counter need not be stated in this judgment.

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4. We have heard Sri H.M.Dhal, learned counsel for the applicant and Sri Ashok Mohanty, learned Standing counsel for the Railway Administration. the statement under Annexure-7, as to how the amount of Rs.5,643.58 paise was arrived at has not been made clear, we asked Sri Mohanty to produce the papers showing details of calculation. Sri Mohanty has produced two sheets of calculation which are made part of the record and has very vehemently contended that these calculations would go to show that in fact there were over-payments to the applicant at different times and the aggregate of such over payments comes to Rs.5,643.58 paise. Therefore the applicant cannot have any grievance and his application should be dismissed.

5. On going through the calculation sheets, we find that stale matters dating back to the year 1971 i.e. about 12 years prior to the retirement of the applicant were raked up and the demand was made after the retirement of the applicant when he could not have had any opportunity to challenge the correctness of the calculation or the demands made by the Administration. Since the applicant had no opportunity and the demands were stale, we find that the action of deduction of the amount of by the Railway Administration at such a late date after retirement is unjustified and it would cause, no doubt, hardship to a man who has already retired. Accordingly, the application succeeds in part and the amount of Rs.5,643.58 paise recovered from the D.C.R.G. payable to the applicant be refunded to him ~~within four months~~ within four months from the date of receipt of a copy of the judgment. No costs.

[Signature]

 MEMBER (JUDICIAL)

B.R. PATEL, VICE-CHAIRMAN. I agree.

C.A.T., Cuttack, /29.11.89/Jena.

[Signature] 29.11.89

 VICE-CHAIRMAN.