

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 645 OF 1998.

Cuttack, this the 25th day of February, 2000.

BABAJI SAHOO.

....

APPLICANT.

VRS.

UNION OF INDIA & OTHERS.

RESPONDENTS.

FOR INSTRUCTIONS.

1. whether it be referred to the reporters or not? Yes
2. whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 645 OF 1998.

Cuttack, this the 25th day of February, 2000.

C O R A M :

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN:

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDL.).

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BABAJI SAHOO,
Aged about 65 years,
Son of Late Dalu Sahoo,
presently residing at
Village: Boiri, PO: Boiri,
Dist: Cuttack.

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Applicant.

By legal practitioner: Mr. R. Rath, Advocate.

- Versus -

1. Union of India represented through the
General Manager, South Eastern Railways,
Garden Reach, Calcutta-43.

2. Senior Divisional Personnel Officer,
South Eastern Railways, Khurda Road,
Po: Jatni, Dist. Khurda.

3. FA & CAO,
South Eastern Railways, Garden Reach,
Calcutta-43.

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Respondents.

S. Jam
By legal practitioner: Mr. C. Mishra, Additional Standing
Counsel (Railways).

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for re-calculation of pension. He has also challenged the deduction of Rs.1,534/- from his D.C.R.G. and for re-fixation of his pension and D.C.R.G. accordingly and for refund of Rs.1,534/- deducted from his D.C.R.G.

2. Applicant was initially appointed as a Khalasi on 3.10.1960. In due course he was promoted to the rank of Blacksmith, Gr.I on 12.3.1993 and he retired on superannuation on 31.7.1993. After superannuation, his retirement benefits was fixed in order dated 31.8.93, at Annexure-1 in which his pension was fixed at Rs.630/-PM from 1.8.1993 alongwith relief of Rs.580/-. His gratuity was fixed at Rs. 21,240/-. Applicant has stated that as per service certificate issued to him in order dated 30.7.1993, at the time of his retirement, his service was from 3.10.1960 to 31.7.1993 but Respondents have not taken into account the full period of service for 32 years, 9 months and 28 days but has taken into account 29 years, 8 months and 6 days. On the above grounds, he has asked for recalculating the qualifying period of service and refixing his pension and gratuity. He has further stated that from his gratuity amount of Rs. 21,240/- a sum of Rs.1,534/- has been deducted which consists of Rs.331/- towards house rent and Rs.1203/- towards electricity charges. Applicant has stated

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that during his service period, applicant has never defaulted ⁱⁿ for such payment and therefore, the recovery order in letter dated 5.7.1994 at Annexure-3 is illegal. In the context of the above facts, applicant has come up with the prayers referred to earlier.

3. In this case, Respondents have not filed counter, inspite of eight adjournments. On 6.10.1999 time was allowed as last chance for filing of counter and the matter was posted to 26.11.1999. On 26.11.1999, counter was not filed nor was any request for filing counter. ^{made} ^{^ d.f.m}. In view of this, the matter was posted to 24.12.1999 for hearing and final disposal at the stage of admission. On 24.12.1999, learned Additional Standing Counsel Mr.C.Mishra, asked for time to file counter. As in this case, after eight adjournments, last chance and one more chance had gone for filing of counter and this is a pension matter, request for further adjournment for filing counter was rejected. We have, therefore, heard Mr. T. Rath, learned counsel for applicant and Mr.C.Mishra, learned Additional Standing Counsel appearing for the Respondents and have perused the records.

4. The first prayer of applicant is that from his gratuity of Rs.21,240/-, an amount of Rs.1,534/- has been illegally deducted. From the order dated 5.7.1994, at Annexure-3, it appears that this amount consists of house rent of Rs.331/- and electricity charges of Rs.1203/- totalling to Rs.1534/-. Applicant has stated

that this deduction is illegal and therefore, he has prayed that this amount should be refunded to him alongwith interest. We find that in order dated 5.7.94, the nature of the deduction amounting to Rs.1534/- was intimated to the applicant, and if the applicant had any grievance with this deduction, he should have represented to the Departmental Authorities stating that these amounts are not outstanding against him. Applicant has merely mentioned in para-4(iv) that being aggrieved with the aforesaid deduction as also wrong and irregular calculation of his total period of qualifying service, he had preferred several representations but his representations have not been disposed of. Applicant has not annexed a copy of such representation. In view of this, this prayer is disposed of with a direction to the Respondents that they should intimate to the applicant within a period of 60 days from the date of receipt of a copy of this order, the details of deduction i.e. the month to which the house rent and electricity charges relate. If the applicant wants to contest the above, he may file representation to the Respondents, within a period of 30 days thereafter and such representation should be disposed of within a period of 30 days thereafter. This prayer is accordingly disposed of.

5. The main prayer of applicant is for recalculation of his pension. Learned counsel for applicant has prayed this on two counts firstly that the entire qualifying service has not been taken into account and secondly the

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average pay drawn during last ten months has also been wrongly calculated. These two points are discussed separately.

6. As regards calculation of average emoluments in the enclosre to Annexure-2, the Senior Divisional Personnel Officer has given a detailed calculation how the average pay was arrived at Rs.1407.87P as against the retiring pay of Rs.1440/- which is at Annexure-2. From this it appears that from 12.3.1993, applicant got the pay of Rs.1440/-. Applicant has also stated that he was promoted to the cadre of Black-smith Gr.I on 12.3.93. Prior to 12.3.93, his pay was Rs.1380/-. Accordingly calculating his pay for the period from 15.9.92 till 11.3.1993, leaving aside certain gaps which will be stated later, his pay has been taken as Rs.1380/- from 12.3.1993 till his superannuation on 31.7.1993 his pay has been taken as Rs.1407.87. There is no mistake in this calculation and accordingly it must be held that his average pay has been correctly fixed at Rs. 1407.87P and this contention of learned counsel for the applicant is accordingly rejected. It must be noted that for calculation of gratuity, his last pay drawn i.e. Rs.1440/- has been correctly taken into account as per the next calculation sheet enclosed by applicant.

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7. The last prayer of applicant is for correctly calculating his qualifying service. From Annexure-2 issued by Sr. Divisional Personnel Officer, it is clear that the period of service of applicant is from 3.10.1960 to 31.7.1993 which works out to 32 years, 9 months and 28

days as per calculation in the calculation sheet enclosed to Annexure-2. out of this, Respondents have deducted a period of 3 years, 1 month and 22 days as per details given in this calculation sheet. From this it appears that from 20.2.1961, till his retirement on 31.7.1993, the dates for which the service would not count towards his qualifying service has been mentioned in detail and the total number of days works out to 1147 days i.e. 3 years, 1 month and 22 days. Applicant has not mentioned why this period of non-qualifying service should count towards his pension. This calculation sheet has been given to him on 30.7.1997. He has also not enclosed of any copy of the representation stated to have been filed by him. Therefore, it can not be held that this period of 3 years, one month and 22 days should count towards his qualifying service.

Deducting this period his qualifying service comes calculated on to 29 years, 8 months and 6 days. As pensionable service is/ half yearly basis, qualifying service has to be taken as 29 years and six months. Taking his average pay as Rs. 1407.87P, his pension for 33 years of service would have come to Rs. 703.93P. Therefore, for a period of 29 years and six months, his pension works out to Rs. 629.27P which has been rounded off to Rs. 630/- per month. We, therefore, hold that the qualifying service of applicant has been rightly taken into account and pension of Rs. 630/- per month have rightly been calculated. This prayer of the applicant

is accordingly rejected. In view of the above, it is not necessary to consider the prayer for interest.

8. In the result, we hold that the application is without any merit and the same is rejected subject to the observations and directions with regard to deduction of Rs.1,534/- No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
15.2.2000

KNM/CM.