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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 582/2001

Cuttack this the 25th day of June, 2003

Lakshman Senapati, aged about 60 years
son of late Kapil Senapati, at present
residing at Sarvoday Nagar, PO-Puri, PS-
Kumbharpara, Dist. Puri.

.....Applicant

Versus

UNION OF INDIA & OTHERS

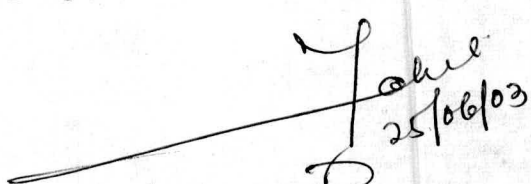
..... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

Yes

No


(M. R. MOHANTY)
MEMBER (JUDICIAL)

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CORAM :

THE HON'BLE SHRI M.R. MOHANTY, MEMBER (JUDICIAL)

Lakshman Senapati, aged about 60 years
son of late Kapil Senapati, at present
residing at Sarvodaya Nagar, PO-Puri,
PS- Kumbharapara, Dist. Puri

.....Applicant

Advocate for the Applicant:-

Mr. B.S. Tripathy, Advocate

Versus

1. Union of India, represented through the
General Manager, South Eastern Railway,
Garden Reach, Kolkata-43
2. Divisional Railway Manager,
South Eastern Railway, Khurda Road,
At/PO-Jatani, Dist. Khurda
3. The Senior Divisional Personnel Officer,
(D.R.M.C.P.) Khurda Road, At/PO-Jatni,
Dist. Khurda
4. The F.A. & C.A.O. (Pension),
South Eastern Railway,
Garden Reach, Kolkata-43

Advocate for the Respondents:-

Mr. Ashok Mohanty,
Sr. Advocate for the
Railways.

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL)

The Applicant was in service of Railways as a
Teacher in the Railway Primary School at Puri under Khurda
Road Division of S.E. Railways and he faced retirement from

service, on attaining the age of superannuation, on 31.03.2001. Long before his said retirement, the Applicant was being paid basic salary of Rs.9000/- per month. But on the day of retirement, he was paid a basic salary at the rate of Rs.8825/- per month. Accordingly, his pension was calculated on the basis of his last pay @Rs.8825/- per month. It is the case of the Applicant that sudden reduction of his salary has not only affected him at the last month of his service but the same has resulted in payment of less amount as his pension for rest of his life. The Respondents not only reduced his last month's pay from Rs.9000/- to Rs.8825/- but decided to recover a huge amount from his pensionary dues, by taking a stand that the payable of Rs.9000/- per month to the Applicant (for several months) was a wrong action. In the said premises, the Applicant has filed the present Original Application under section-19 of the Administrative Tribunal's Act, 1985, by claiming (a) full salary of Rs.9000/- for the month of March, 2001 and (b) by demanding higher amount as pension. He has also prayed for (c) a direction to the Respondents not to recover anything from him towards excess payment of salary. It is the further case of the Applicant that he is not being paid fixed medical allowance @ Rs.100/- per month (along with his monthly pension); although he is entitled to the same and, as such, he has prayed, in the Original Application, for a direction to the Respondents to allow him to draw Rs.100/- per month ; alongwith his monthly pension, towards fixed medical allowance.

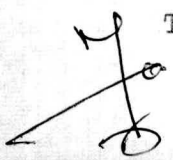
2. By filing a counter, the Respondents have explained that for the reason of a wrong fixation of pay, the Applicant has paid basic salary @ Rs.9000/- per month; although he was to be paid salary @ Rs.8825/- per month and that since the excess amount were being paid to the Applicant, the same has been sought to be

recovered from the Applicant. It has been also explained in the counter, filed by the Railways, that since there is a Railway Hospital at Puri and since the Applicant is drawing his pension from the Bank at Puri, he is not entitled to fixed medical allowances at the rate of Rs.100/- per month; which is only meant for those who are residing at places, on retirement, where there are no medical facility made available by the Railways.

3. Heard Mr.B.S.Tripathy, learned counsel appearing for the Applicant and Mr.Ashok Mohanty, learned Sr.Counsel appearing for the Railways and perused the materials placed on record.

4. It is not the case of the Applicant that fixation of his pay (which resulted in drawal of his salary at the basic pay of Rs.9000/- per month) was as per the requirement of the pay fixation rules. Equally, it is not the case of the Applicant that revised fixation of his pay (which resulted in fixing his pay at Rs.8825/- per month) is a wrong one. Since the pay fixation was wrongly made at Rs.9000/- per month (instead of being fixed at Rs.8825/-), the action of the Respondents in refixation of pay (of the Applicant) at Rs.8825/- per month (by superceeding the previous pay fixation, which resulted in fixing his pay at Rs.9000/- per month) cannot be said to be bad. The authorities, who are competent to fix the pay, have got inherent right to revise the same and, as such, refixation of pay of the Applicant cannot be said to be bad.

5. However, the Respondents cannot recover the excess amount paid to the Applicant; although an excess amount was paid to ~~the~~ the Applicant for the reason of wrong pay fixation. They cannot recover the excess amount paid to the Applicant for



the reason of Estt.Srl.No.22/99 of the Railways; the relevant portion of which reads as "the Board have decided that the recovery of erroneous payment made to the teachers as a result of a clarification issued by the Board vide letter dated 23.3.1989 quoted above, may be waived".

6. In the aforesaid premises, the Respondents are hereby directed to release the amount (of Rs.28,355/ already deducted from the Applicant) in favour of the Applicant forthwith i.e., within a period of 30 days from the date of receipt of a copy of this order; failing which the Respondents should pay interest @ 10% per month to the Applicant.

7. So far as the prayer of the Applicant to get fixed medical allowance @ Rs.100/- per month, the Respondents are hereby directed to reexamine the grievance of the Applicant and, if he is not residing in the local limits of Puri town and residing somewhere in his native near Banapur, then he should be allowed fixed medical allowance of Rs.100/- per month alongwith his monthly pension. This exercise should be completed by the Respondents (with cooperation of the Applicant; which he should extend) within a period of 90 days from the date of receipt of a copy of this order.

8. With the aforesaid observations and directions, this Original Application is allowed in part. No costs.

9. Send copies of this order to the parties (in the address given in the Original Application) and free copies of this order be given to the General Manager of East Coast Railways at Chandrasekharapur, Bhubaneswar and to the learned counsels appearing for the both parties.

M. R. Mohanty
(M. R. MOHANTY)
MEMBER (JUDICIAL)
25/06/03