

In the Central Administrative Tribunal  
Calcutta Bench

OA No.8/96

Present : Hon'ble Mr.B.P.Singh, Member(A)  
Honble Mr.Kuldip Singh, Member (J)

Monbodh Chakraborty

-Vs-

S.E. Rly

Present for the applicant : Mr.S.K.Ghosh

Present for the respondent : Mr.S. Choudhury

Date of order : 6-2-2002

ORDER

Mr.Kuldip Singh, Member(J) :

Heard the learned counsel for the parties.

2. The applicant has filed this OA as the respondents have not paid him the Gratuity and other retiral benefits.

3. The facts as alleged by the applicant is that in the year of 1986 the applicant was promoted to the post of Loco Foreman in the pay scale of Rs500-700/- and after publication of the report of the Fourth Pay Commission the applicant was given the pay scale of Rs2000-3200/- with effect from 1-4-1986 and he was in the basic pay of Rs2375/- The respondents in the meantime has detected the error in the fixation of pay scale of the applicant on the eve of his retirement and have recovered a sum of Rs62,070/- from DCRG amount which was due to wrong fixation of pay w.e.f. 1-1-86. The applicant claims that he had no role in fixation of his pay. Rather his pay was fixed by the Department. So, for no fault of the applicant, the excess payment cannot be recovered from the DCRG and other retiral benefits.

4. The respondent who have contested the case stated that since the applicant was paid in excess, so the amount was to be recovered from his DCRG.

*True*

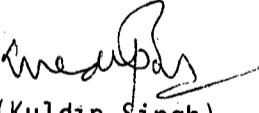
5. The learned counsel for the applicant submits that the Hon'ble Apex Court in Shyam Babu Verma and Others V. Union of India and Others (1994 2 Supreme Court Cases 521) has held as under :

" B. Service Law - Relief - Higher pay scale erroneously given to petitioners since 1973 - Pay scale of petitioners reduced in 1984 - Held, since petitioners received the higher scale due to no fault of theirs, it has only be just and proper not to recover any excess amount already paid to them."

6. The learned counsel for the applicant has also referred to Judgement given by this Tribunal in OA 136 of 1993 and in OA 947 of 1994 wherein the law as laid down by the Hon'ble Supreme Court has also been followed.

7. In view of the settled law position, we are also satisfied that since the applicant has no role in his fixation, so he has no fault. We therefore direct the respondent to pay the DCRG amount to the applicant and if any amount has since been recovered that may also be refunded to the applicant along with 12% interest <sup>on the total amount</sup> within a 2 months period of 2 months from the date of receipt of the order. No order as to costs.

OA is allowed in above terms to

  
(Kuldip Singh)

Member(J)

  
(B.P. Singh)

Member(A)