

(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 10.12.1998.

O.A. No. 144/1998

R.K. Sachdeva, 6-H/12, Jawahar Nagar, Sriganaganagar -
Retired Assistant Superintendent, Telegraphic Traffic.
... Applicant.

v e r s u s

1. Union of India through Secretary, Department of
Telecommunication, Sanchar Bhawan, New Delhi - 110 001.
2. The Chief General Manager, Telecommunication
(Accounts), Rajasthan, Jaipur - 302 008.
3. The Senior Accounts Officer, Telecom (Accounts), 'C'
Scheme, 14, Chitranjan Marg, Jaipur.
... Respondents.

Applicant present in person.

Mr. K.S. Nahar, Counsel for the respondents.

CORAM:

Hon'ble Mr. Gopal Singh, Administrative Member.

.....

O R D E R

BY THE COURT:

Applicant, R.K. Sachdeva, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned order at Annexure A/4 dated 17.4.1996 ordering irregular recovery of Rs. 13,137/- from the pensionary benefits of the applicant and further for issuing a direction to the respondents to refund the amount so recovered. The applicant has also

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prayed for a direction to release the lateral advancement with a pay scale of Rs. 2000-3200 to which the applicant is entitled.

2. Applicant's case is that he was last posted as Assistant Superintendent Incharge in the pay scale of Rs. 1400-2600 at Telegraph office, Sriganganagar, Rajasthan Telecom Circle. The applicant had retired from service on superannuation on 31.10.1993. That in terms of Department of Telecommunication Memo No. 50-25/93-T-2 dated 20.6.1994, the pay scale of Assistant Superintendent (T.T.) cadre has been revised from Rs. 1400-2600 to Rs. 1640-2900 and this was given effect to from 1.1.1986. Applicant's pay was fixed at Rs. 2120/- per month with effect from 1.1.1986 with date of next increment as 1.1.1987 by the department's letter No. A-20/Ch-II dated 27.8.94 (Annexure A/1). While arriving at the stage of Rs. 2120/- p.m. in the scale of Rs. 1640-2900, the applicant was given the benefit of two increments under Note 3 below Rule 7 of the CCS (Revised Pay) Rules, 1986. The applicant was paid arrears on account of fixation of pay in the revised pay scale vide respondents' voucher dated 20.9.94. It is the contention of the applicant that the initial pay fixed at Rs. 2120/- per month vide respondents' letter dated 27.8.94 (Annexure A/1) was arbitrarily and unilaterely reduced to Rs. 1940/2000 per month with date of next increment as 1.9.86 vide department's letter dated 7.9.95 (Annexure A/2). The excess payment made on account of fixation of pay in the revised scale was ordered to be recovered from the applicant @ Rs. 1000/- per month from the relief on pension. The applicant has ^{made} many representations in this regard to the respondents, but to no avail, which have lead the applicant to approach this Tribunal.


3. Notices were issued to the respondents and they have contested the application. In the reply, the respondents have submitted that it was by mistake that two advance increments were given to the applicant on fixation of his pay in the revised scale effective from 1.1.1986 and when the mistake came to light, the same was corrected vide

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respondents' letter dated 7.9.95. Thereafter, the applicant was given notice to refund the amount so overpaid vide department's letter dated 18.9.95, but the applicant failed to refund the overpayment made to him and finally the overpayment was ordered to be recovered from his pension's relief. The contention of the respondents is that the applicant was given due opportunity before the aforesaid recovery was ordered. It has also been submitted by the respondents that the entire amount of overpayment has since been recovered.

4. I have heard the applicant and also the counsel for the respondents and have perused the records of the case.

5. The main contention of the applicant is that instead of ordering the recovery of overpayment from the pension's relief, the respondents should have pursued the matter through a civil Court. It would be relevant here to go through the relevant provisions regarding recovery of Government dues from a retired employee. In this connection, Government of India's decision No. (6) under Rule 73 of the Central Civil Services (Pension) Rules, 1972, reads as under :-



"(6) When a pensioner refuses to pay Government dues.- The failure or refusal of a pensioner to pay any amount owed by him to Government cannot be said to be 'misconduct' within a meaning of Article 351 of the CSR [Rule 8, CCS (Pension) Rules, 1972]. The possible way of recovering/demanding Government dues from a retiring officer who refuses to agree in writing, to such dues being recovered from his pension is either to delay the final sanction of his pension for some time which will have the desired effect for persuading him to agree to recovery being made therefrom or take recourse to Court of law."

As a matter of fact, the department should have enforced the recovery through Court of law in terms of above provisions. The respondents' action to order recovery from the pension's relief of the applicant is not supported by the rules on the subject.

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6. During the course of hearing, the applicant has admitted that he was wrongly given two increments at the time of his fixation of pay in the revised pay scale and he was liable to refund the overpaid amount. It has also been submitted by the respondents that the entire overpaid amount has since been recovered from the applicant.

7. In regard to the second prayer of the applicant for release of lateral advancement in the higher scale of Rs. 2000-3200, it has been submitted by the respondents that the Scheme for lateral advancement was effective from 1.4.94 and the applicant had retired from service much earlier on 31.10.93 and as such, he was not eligible for lateral advancement under this Scheme. The applicant also, during the course of arguments, did not press for this claim, i.e., lateral advancement. I have accordingly not considered this prayer of the applicant.

8. As has been discussed above, the respondents should have enforced the recovery through a Court of law, but in view of the changed circumstances, i.e., admittance by the applicant of wrong fixation of his pay in the revised pay scale and the overpayment having been recovered in full, I do not consider it necessary to interfere at this stage. The present application is accordingly dismissed. The parties are left to bear their own costs.


Gopal Singh
(GOPAL SINGH)

Administrative Member

cvr.

A.D. of Rego attached
in final set
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6/1/99

Copy of order
Sent to Act &
Counsel for Rego
by Rego AD vide

No 501 to 502

dt. 28-12-98

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28/12/98