

In the Central Administrative Tribunal
Jodhpur Bench:Jodhpur

29
Date of Order : 8.4.2002.

O.A.NO. 70/2001

1. Ghanshyam Das S/o Shri Devki Prasad, aged about 58 years, resident of T-172, Purani Loco Colony, Jodhpur, at present employed on the post of Senior Loco Inspector in DRM Office, Northern Railway, Jodhpur.
2. Mool Singh S/o Shri Kanhya Lal, aged about 56 years, resident of T-151, Purani Loco Colony, Jodhpur, at present employed on the post of Senior Loco Inspector in DRM Office, Northern Railway, Jodhpur.
3. Rameshwar Lal S/o Shri Kanhya Lal, aged about 57 years, resident of Plot No. 58-C, Ladha Colony, Ratanada, Jodhpur, at present employed on the post of Diesel Instructor, Diesel Shed, Bhagat Ki Kothi, Northern Railway, Jodhpur.
4. Tara Chand S/o Shri Gheesu Lalji, aged about 54 years, resident of Qtr. No. Nehru Park Railway Colony, Jodhpur, at present employed on the post of Loco Inspector in DRM Office, Northern Railway, Jodhpur.
5. Qamar Ahmed S/o Shri Abdul Hai, aged about 53 years, resident of Qtr. No. D.S. Colony, Jodhpur, at present employed on the post of Diesel Instructor, Diesel Shed, Bhagat Ki Kothi, Northern Railway, Jodhpur.

.....Applicants.

versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Personnel Officer, Northern Railway, Jodhpur Division, Jodhpur.

Lehal Singh
.....Respondents.

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Mr. B.Khan, counsel for the applicants.

Mr. S.S.Vyas, counsel for the respondents.

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CORAM :

Hon'ble Mr. Justice O.P.Garg, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

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O R D E R

(Per Hon'ble Mr.Gopal Singh)

In this application under section 19 of the Administrative Tribunals Act, 1985. applicants, Ghanshyam Das, Mool Singh, Rameshwar Lal, Tara Chand and Qamar Ahmed, have prayed for quashing the impugned order dated 24th January, 2001 (Annex. A/1) with all consequential benefits.

2. Applicants' case is that they were engaged as Inspector in the Diesel Training Centre, Bhagat-Ki-Kothi, for various periods between 1990 & 1995. They were initially granted 30% of their basic pay as teaching allowance. However, in terms of the order dated 28th September, 1995 (Annex.A/3), they were held not entitled to 30% of teaching allowance. The applicant approached this Tribunal earlier challenging the withdrawal of teaching allowance vide O.A. No. 498 of 1995 (Rameshwar Lal and Ors. Vs. UOI and Ors.). This O.A. was decided on 3rd May, 2000 with a direction to the respondents to issue show cause notice to the applicants and consider their representations. The applicants were issued individual show cause notice and their representations were considered and rejected vide the impugned order dated 24th January, 2001. Hence, this application.

3. Undoubtedly, the applicants have been paid teaching

Gopal Singh

allowance when they were not entitled to it.

4. This controversy has come up earlier in O.A. No. 40/2001 before one of us (Mr. Gopal Singh). This O.A. was decided on 27th March, 2002 in the light of the judgement of Hon'ble the Supreme Court in Union of India and another Vs. R. Sarangpani and others etc. etc., reported in AIR 2000 SC 2163. We consider it appropriate to extract below the relevant portion of the said judgement :-

"23. We, therefore, direct that the extra increment given pursuant to any judgment of the Tribunal which has now been set aside be recovered by the Union of India. It would be open to the Government of India to recover the same or to absorb the same in the future monthly salary spread over, month by month.

24. But there is one exception to this direction for recovery. In case where any of these employees of the technical branch have received the benefit of the increment because of the judgment which we have now set aside, in case they have retired as of today, no recovery will be made from their retiral benefits on the basis of the judgment which we have pronounced today."

5. In the light of the law laid down as above, the Government is entitled to recover the over paid amount from the applicants. In this view of the matter, we do not find any merit in this application and the same deserves to be dismissed. We, therefore, dismiss this application with no orders as to cost.

Gopal Singh
(Gopal Singh)
Adm. Member

O.P.Garg
(Justice O.P.Garg)
Vice Chairman

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S S 12/11/2000

Part II and III destroyed
in my presence on 10-11-07
under the supervision of
section officer () as per
order dated 14/10/07

Section officer (Record)

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