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**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

**ORIGINAL APPLICATION NO. 133/2009
&
MISC. APPLICATION NO. 82/2009**

Date of Order: 11th Dec. 2009

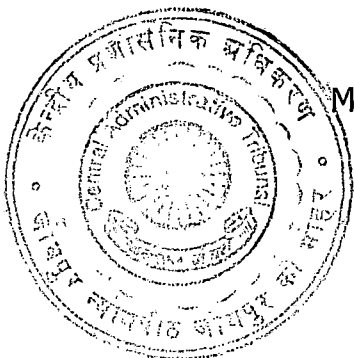
HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER

R.R. Laut S/o Shri Rati Ram Laut, aged about 67 years, Resident of Ward No. 26, Near Rajasthan State Electricity Board, Badapal Road, Suratgarh, Dist. Sriganganagar, Rajasthan.

The applicant retired from the post of Assistant Engineer, Northern Railway, Jodhpur.

....Applicant

Mr. Kuldeep Mathur, counsel for applicant.



VERSUS

1. The Union of India through the General Manager, North Railway, Baroda House, New Delhi.
2. The General Manager, North-Western Railway, Jaipur, Rajasthan.
3. The Chief Administrative Officer, Kashmiri Gate, Delhi, North Railway, Delhi.
4. The Dy. Chief Engineer (Construction-I), North-Western Railway, Jodhpur.
5. The Dy. Chief Engineer (Construction-I), North Western Railway, Bikaner.

....Respondents.

Mr. Manoj Bhandari, counsel for respondents.

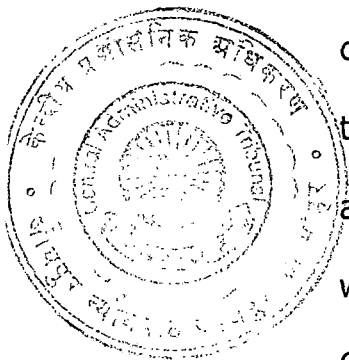
Manoj Bhandari

ORDER
(Per Hon'ble Dr. K.B. Suresh, Judicial Member)

The applicant has filed a Misc. Application for condonation of delay. On going through the contentions thereof, I am of the view that the Misc. Application be allowed as the reasons for such delay are quite satisfactory and convincing. The Misc. Application stands allowed.

2. The applicant seeks that the notices of recoveries dated 06.10.2001, 19.01.2004, 30.09.2005, 19.11.2005, 13.02.2006 and 11.11.2008 may be declared illegal and the same may be quashed and set aside. Learned counsel for the applicant took us through Annexure-A/4, which is for recovery of Rs. 9,890/- and apparently, the applicant replied to. Thereafter, Annexure-A/6 was apparently issued which called for recovery of Rs. 61,02,992/- to which also apparently the applicant replied. Thereafter, vide Annexure-A/10 the amount was reduced to Rs. 7,74,090/- apparently this was also taken up again by the applicant and thereafter Annexure A/14 was issued by the respondents claiming an amount of Rs. 5,71,461/-, this was also apparently challenged by the applicant.

3. The applicant had taken a view that the said material was used for the track building and the trains are even now running. If such material had not been used, there cannot be a possibility for the trains' running. When the matter was taken up for hearing, it



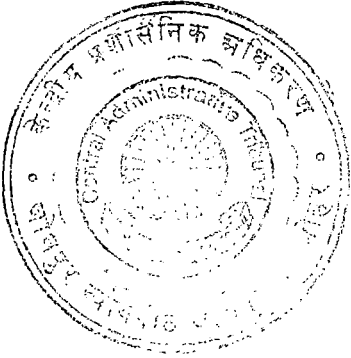
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was submitted that the applicant had retired in the year 2002 but when the reply was filed, the respondents had claimed an amount of Rs. 39 Lakhs and odd as dues from the applicant. Thereafter, on 16.11.2009, I had passed an order as follows:

"OA 133/2009 with MA 82/2009

Mr. K. Mathur and Govind Suthar, Adv., present.

The applicant has retired in 2002 and he prays that at different periods, he had been issued several recovery notices claiming different amounts. Finally, in 2008, an amount of Rs. 39 Lakhs and odd has been shown as due from him. Apparently, the said amount relates to the outstandings of the stores articles and the claim of the respondents is that the applicant himself had not supplied clearance and finalise the things at the time of his superannuation. Apparently, a no dues certificate was not issued which had prevented the applicant from getting his pension for the last seven years. Sufficient time had been granted to the respondents to file reply but, even after number of adjournments, they are unable to file a reply.



In view of this, one last opportunity is given to the respondents to file a reply which shall include a detailed account of money apparently due from the applicant with sufficient documents and evidence therein to support the same and it shall be filed within ten days from to day failing which, an immediate order shall be passed allowing the applicant to obtain sufficient reliefs.

Post this matter on 26.11.2009.

Sd/-
(Dr. K.B. Suresh)
Member (J)"

4. The matter was listed on 26.11.2009. On that day also, the respondents were unable to file a calculation statement detailing the materials apparently lost and the value thereof. It was thereafter posted to 04.12.2009. On 04.12.2009, the matter was heard in detail and the counsel for the respondents was unable to produce a calculation statement.

5. After hearing both the parties, it appears to me that there may not be much in the contention of the respondents as the pleadings and documents would suggest that materials had been

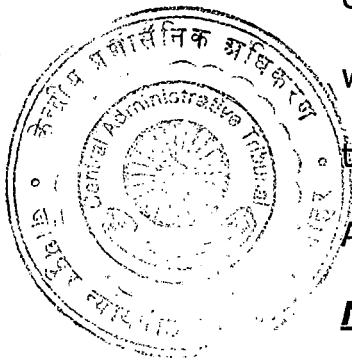
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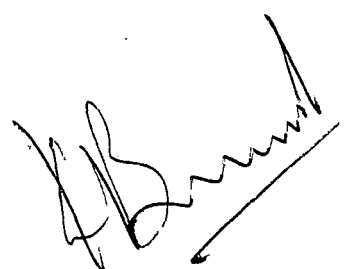
taken out and used and the objections raised is that all such materials may not have been properly recorded and reconciled in proper documentation and otherwise other than the technical fault. It is apparently to be noted that no allegations of fraud and misappropriation is laid against the applicant by the respondents.

6. Learned counsel for the respondents would submit that the proper course would be for a departmental enquiry to be held in which the articles lost or not pointed out for to be analyzed and dealt with in order to find out if at all there is a lacuna on the part of the applicant. At this stage, learned counsel for the applicant would point out that the applicant had already retired in 2002 and till now has not been in receipt of any retirement benefits. The Apex Court judgment in **Moti Ram Deka & batch vs. General Manager, North East Frontier Railway and Ors.** - AIR 1964 SC 600 - seems to be relevant.

7. After discussion at the bar the learned counsel for the respondents argues that such amounts, as is legally due on the applicant's retirement normally, shall be released to the applicant provided the applicant would give undertaking to return the said amount in case after final analysis some amount is due to him. Therefore, the following orders are issued:-

- (a) Within a month from today, the respondents shall release all the arrears of amounts normally due to the applicant including the pension as detailed in prayer clause (ii).





(b) The applicant shall within a week from today serve on the respondents an undertaking to the effect that if on final analysis, if any amount is found due to him, thus released to him now, is liable to be returned if the said amount is less than the amount thus claimed by the respondents if otherwise on proper adjustment.

(c) The right of the applicant or the respondents to approach the Tribunal again for a judicial determination of any other resultant matters by clarificatory application is hereby reserved. I am not imposing any cost as the order is made practically on agreement.

8. With the above observations and directions, this Original Application is disposed of.


(DR. K.B. SURESH)
JUDICIAL MEMBER


nik/rss.

RECEIVED
15/12/05

Rec'd copy
Gail
15/12/05
for Mr. Bhadani