

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 127/2010

DATE OF ORDER: 12.07.2011

CORAM:

**HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER**

Amar Singh S/o Shri Babulal Ji, by caste Mali, aged about 62 years, R/o A-75, Sukhram Nagar, Rajbag, Soorsagar, Jodhpur, Ex-S.S. Engineer, under working Respondent No. 3.

...Applicant.

Mr. P.R. Singh, proxy counsel for
Mr. Sajjan Singh, counsel for applicant.

VERSUS

1. Union of India through the General Manager, North-Western Railway, Headquarter Building, Jaipur.
2. The Divisional Railway Manager, North-Western Railway, DRM's Office, Jodhpur.
3. The Senior Divisional Personnel Officer, North-Western Railway, Divisional Rail Manager Office, Jodhpur.

... Respondents.

Mr. Salil Trivedi, counsel for respondents.

**ORDER
(Per Dr. K.B. Suresh, Judicial Member)**

It would appear that the pay of the applicant was fixed vide letter dated 04.10.1995, and then on 16.02.2009, it was sought to be re-fixed. Apparently, the applicant submitted a detailed representation dated 26.02.2009 whereupon the re-fixation made vide proceeding dated 16.02.2009 had been re-visited and again fixed. In the meanwhile, the applicant retired on 31.03.2009, at that time, a sum of Rs. 1,00,000/- was withheld out of the total terminal benefits to be payable.

2. When a person retires from the service, he would be entitled to get the whole amount, which had been the result of his

earnings by his labour of all the preceding years, for himself to survive for the rest of his life. Delayed payments, therefore, have caused prejudicial effects on his future prospects as well as of his family.

3. Apparently, the applicant made continuous representations, and, on 17.09.2009 the respondents released a sum of Rs. 80,000/- and decided to withhold only Rs. 20,000/-. Thereafter, it appears that the applicant had issued a legal notice, and thereafter filed this Original Application. In the meanwhile, according to the reply filed by the respondents, it would appear that the concerned unit had refunded back a sum of Rs. 19,677/- in June 2010 by deducting an amount of Rs. 323/- as since the case is very old and the record is not available in the concerned bill preparing unit for verification.

4. The question is as whether the records are not available, but if the re-fixation is made, which cannot be done out of imagination and a vacuum. The respondents continue, thereafter, by saying that after going through the PF recovery register maintained by the Accounts Department, it is revealed that in February, 1996 contribution of Rs. 377/- was received towards PG through supplementary bill. The significance of this new receipts are not mentioned anywhere, but it prompted them, apparently in the absence of record, to release a further sum of Rs. 19,677/- in June 2010 by deducting an amount of Rs. 323/- paid in excess with effect from 01.01.1996 to 31.01.2009. The significance of this new release of Rs. 19,677/- is not explained nor also the significance of deducting of Rs. 323/-,

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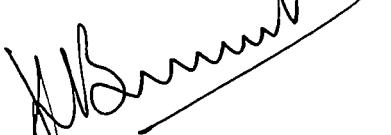
which is said to be paid in excess for a time frame of almost a quarter of a century, is not explained.

5. The Hon'ble Supreme Court had time and again held that for no fault of an employee, if any excess payment has been made, it cannot be recovered. In this case, it is not an excess amount, which is canvassed as to be re-claimed by the respondents, but even in the absence of record to support their cause, they are now seeking to deduct Rs. 323/- for excess payment, which is said to be made during the period of quarter of a century. This also is arbitrary, illegal and not founded on any factual matrix.

6. Therefore, the respondents are directed to pay back a sum of Rs. 323/- to the applicant within a period of one month. For the entire amount of Rs. 1,00,000/-, the respondents shall also pay interest @ 6% per annum to the applicant. Regarding the date of payment of the interest, it is made clear that it shall be the date of actual payment as is made from the due date starting from one month after his retirement.

7. The Original Application is, thus, allowed to the limited extent as stated above with a cost of Rs. 500/- (Rupees five hundred only). The respondents shall pay the said cost to the applicant directly.


(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER


(DR. K.B. SURESH)
JUDICIAL MEMBER