

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

Original Application No.134/2011

Date of decision:29.11.2011

**HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER,  
HON'BLE Mr. SUDHIR KUMAR, ADMINISTRATIVE MEMBER.**

Krishan Chand S/o Shri Poonam Chandji, age 79 years; R/o Kallo ki Gali, Kabutaro-ka-chowk, Jodhpur. Ex. Head Clerk, under working respondent No.5.

: Applicant

**Mr. Mahaveer Bishnoi, proxy counsel for  
Mr. Rakesh Arora, counsel for applicant.**

**Versus**

1. Union of India through the General Manager, North-West Railway HQ., Jaipur.
2. The Deputy Director Finance (Estt)III, Railway Board, Ministry of Railway, New Delhi. .
3. The Joint Director Finance (Estt.), Railway Board, Ministry of Railways, New Delhi.
4. The Finance Advisor & Chief Accounts Officer, North-West Railway, Jaipur.
5. The Chief Works Manager, North West Railway, Jodhpur.

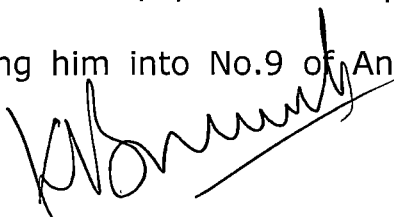
.....Respondents

**Mr. Salil Trivedi, counsel for respondents.**

**ORDER (ORAL)**

**Per Dr. K.B. Suresh, Judicial Member**

We have heard both the learned counsels in great detail and examined the pleadings. The complaint of the applicant is that even though according to the respondents and their documents Annexure-R/1, he had been placed on a scale of Rs.1400-2300 in the year 1989 at the time of his voluntary retirement, and vide Annexure-A/4 and Annexure-A/5 he had been placed at item No.10 as stated in the Annexure-R/2, but vide impugned order his pay is reduced by bringing him into No.9 of Annexure-R/2. In



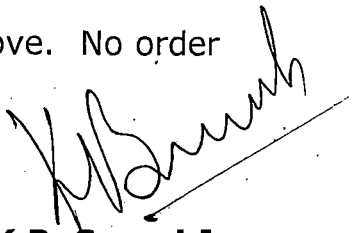
Re. respect of this, the learned counsel for the respondents would submit that a mistake had been committed by them to place the applicant at serial No.10 which he actually ought to have been placed at serial No.9 of the revised pension based on revised pay Bands and Grade pays as per the recommendations of the Sixth Central Pay Commission. The prima facie contention of the respondents seems to be reasonable as even then vide Annexure-R/1 the scale of the applicant is given as 1400-2300.

2. But the Hon'ble Apex Court <sup>has</sup> categorically held that if, not on an attempt on the part of the pensioner or a Government servant, amounts are advanced to him on the belief that it is the correct amounts, then the respondents cannot turn over later and recover the same. So we declare that whatever amounts had been paid to the applicant by the respondents cannot be recovered. But to clarify the mistake occurred earlier, the respondents shall, within two weeks from today, issue a show cause notice, indicating their intention of reducing of quantum of pay band & pension. The date of show cause notice is now notionally fixed as the date <sup>which</sup> till the applicant can receive pension in accordance with Annexure-A/4 & Annexure-A/5 as fixed earlier, and, thereafter, within one month the applicant shall file a reply to the show cause notice. If the respondents thereafter decide that the amounts had been incorrectly fixed earlier, and want to fix once again, then the notional date shall be the date of issuance of the show cause notice as aforesaid. But till then the pension shall be regulated by Annexure-A/4 and Annexure-A/5 and there cannot be any recovery as well. Re.

W. B. S. S.

3. The O.A. is allowed to the extent as stated above. No order as to costs.

  
[Sudhir Kumar]  
Administrative Member

  
[Dr. K.B. Suresh]  
Judicial Member

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