

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

**Original Application No. 06/Jodhpur/2012
alongwith**

**Misc.Application No. 01/Jodhpur/2012 and
Misc.Application No. 114/2012**

Date of decision:01.06.2012

CORAM :

HON'BLE MR. B.K.SINHA, ADMINISTRATIVE MEMBER.

Chunni Lal Purohit S/o Late Shri Asu Lal Ji aged 85 years, Resident of Plot No. 43-45, Rajendra Marg, Masuria, Near Ramdev Hospital, Jodhpur, Official Address : Head Clerk (Retired) Under Respondent No. 5.

: Applicant

[By Mr. Deepak Bora, Advocate]

Versus

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

....Respondents

[By Mr. Salil Trivedi, Advocate]

ORDER (ORAL)

There is a pending M.A. No. 114/2012 listed today for modification of the interim order issued in favour of the applicant. However, the learned counsel for the respondents submits that the OA can be decided finally instead of making the modification. Applicant's OA is listed on 5.7.2012. Following the principle that the cases should be decided at the earliest whenever possible to avoid delay and harassment the OA is recalled and being heard and being disposed of today with the consent of both the parties present.



2. The basic case of the applicant is that he retired as Head Clerk from the Office of the Chief Works Manager, North Western Railway (erstwhile Northern Railway) on 13.7.1988. A revised PPO was issued to him as a result of the implementation of VI Pay Commission in the scale of Rs. 5000-8000 (Annex.A/4). Subsequently, it was discovered that his pension had been incorrectly fixed and had been revised to a correspondent scale of Rs. 4500-7000 in the V Pay Commission and Rs. 5200-20200 in the VI Pay Commission corresponding to Rs. 1400-2300 in the IV Pay Commission. The pension was reduced and deductions were ordered immediately without having issued any notice to the applicant.

3. The applicants have referred to OA No. 134/2011 of Kishan Chand Vs. UOI and Ors. decided vide order dated 29.11.2011 by this Bench of the Tribunal [Annex.A/5] and have also referred to OA No. 165/2009 Bhanwar Lal Choudhary Vs. U.O.I. and Ors. decided on 8.2.2011. It is well accepted that even if a mistake has been made in fixation of pension amount in favour of the applicant the amount paid in excess than the admissible cannot be deducted with retrospective effect. It is also equally well accepted on the ratio in the Kishan Chand's case that if a deduction is to be made a notice should be issued to the applicant and he should be given an opportunity of being heard. This forms a part of the Natural Rights structure expressed through the maxim *audi alteram partem* which forms the cornerstone of the structure.

4. In the light of the aforesaid decisions, the following orders are being given :

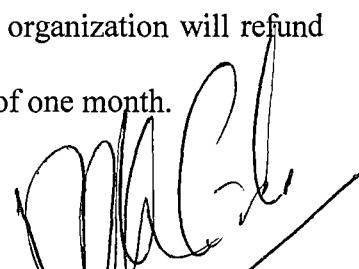
(i) No recovery should be made of the amount already paid as per Annex.A/3

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(ii) The respondents will issue a notice and given to the applicant of being heard in case it is decided that his pension is to be reduced which should be reduced from the date of the said notice.

5. The applicant has also filed a M.A. 1/2012 for condonation of delay which is allowed. The M.A. No. 114/2012 for treating Annex.A/3 in place of Annex.A/4 is also allowed.

6. The learned counsel for applicant argued that the things are required to be clarified. It is further directed that the respondents will issue a show cause notice to the applicant within 15 days of this order and thereafter the applicant will get one months time to file reply and the matter will be decided by the respondents organization at the earliest possible date. The amount of recovery till the date of notice will stand refunded. The respondent organization will refund the amount to the applicant within a period of one month.



(B.K.Sinha)
Administrative Member

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