

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00359/15

Jodhpur, this the 17th November, 2016

CORAM

Hon'ble Ms Praveen Mahajan, Admn. Member

Gordhan Singh S/o Late Shri Jethu Singh aged about 79 years, R/o 409 Dilip Nagar, Magra Punjala, Jodhpur. Retired from the post of Mistry Electric of Electrical Department, North Western Railway, Jodhpur.

.....Applicant

By Advocate: Mr S.K. Malik.

Versus

1. Union of India through the General Manager, North Western Railway, Jaipur (Raj).
2. Senior Divisional Personnel Officer, North Western Railway, Jodhpur Division, Jodhpur.
3. Senior Divisional Finance Manager, North Western Railway, Jodhpur Division, Jodhpur.
4. Assistant General Manager, State Bank of India, Special Branch, High Court Campus, Jodhpur.

.....Respondents

Respondents No. 1 to 3 : By Advocate Mr. Darshan Jain proxy counsel for Mr Vinay Jain.

Respondent No. 4 : By Advocate Mr J.K. Chanda.

ORDER

In the instant Original Application, the applicant has challenged notice dated 10.08.2015 (Annex. A/3) issued by

 Assistant General Manager, State Bank of India, Special Branch,

High Court Campus, Jodhpur whereby recovery of Rs 29,561/- has been ordered to be recovered in lump sum; and revised PPO No. 0194060122 dated 05.08.2013 (Annex. A/1) and PPO No. NWR-2010-11318-544085 dated 05.08.2013 (Annex. A/2) whereby pension of the applicant has been revised to Rs 6008/- from 01.01.2006. The applicant has sought following reliefs:

- (i) By an appropriate writ order or direction impugned PPO No. 0194060122 dated 05.08.2013 at Annex. A/1, PPO No. NWR-2010-11318-544085 dated 05.08.2013 at Annex. A/2 and impugned Notice dated 10.08.15 at Annex. A/3 be declared illegal and be quashed and set aside as if the same were never issued against the applicant.
- (ii) By an order or direction pension revised vide Annex. A/6 be restored and excess amount recovered from the pension of the applicant from the month of December, 2013 to till recovery be refunded alongwith interest @ 18% pa.
- (iii) By an order or direction exemplary cost be imposed on the Respondents for causing undue harassment to the applicant.
- (iv) Any other relief which is found just and proper be passed in favour of the applicant in the interest of justice.

2. The respondents No. 1 to 3 and respondent No. 4 have filed separate reply to the OA. When matter was taken up for hearing today, counsels representing all the parties were in agreement that vide judgment dated 19.10.2016, issue involved in the present OA has already been settled by this Tribunal in OA No.290/00187/15 (Tikma Vs UOI & Ors).

3. In the present case, the applicant retired on 30.06.1994 from the post of Mistry, pay-scale of Rs 1400-2300/- . As per S.No. 9 of

Annexure A-1 of DoP&PW's OM dated 14.10.2008 circulated by Railway Board vide RBE No. 181/2008 dated 18.11.2008 (Annex. R/1) the corresponding pay scales after implementation of 5th CPC from 01.01.1996 is Rs 4500-125-7000 and thereafter 6th CPC Pay Bands/scales is Rs 5200-20200 + Rs 2800 Grade Pay. However, as per Railway Board's own admission vide RBE No. 24/2010 dated 02.02.2010 (Annex. R/2) some of the Zonal Railways while revising pension/family pension of pre-1996 and pre - 2006 retirees have incorrectly indicated the corresponding 5th CPC pay scales and 6th CPC Pay Band and Grade Pay. The claim of the applicant principally is that corresponding pay scale of Rs 5000-8000/- under 5th CPC and Pay Band-II with Grade Pay Rs 4200/- granted to him under the revision of pension after implementation of 5th & 6th Pay Commission is correct. However, the claim of the applicant does not hold good on bare perusal of RBE No. 42/2010 dated 18.03.2010 (Annex. R/3) wherein, it has been further clarified by the Railway Board that :

"2. It is further clarified that the pay scale of Rs. 5000-8000 in Vth CPC was allotted to the Head Clerks who were in service on or after 01.01.1996. However, as per instructions dated 11.05.2001 of Department of Pension & Pensioners' Welfare (DOP&PW) and adopted by this Ministry vide letter No. F(E)111/99/PN1/20 dated 20.08.2001, pension of all those employees who retired prior to 01.01.1996 has to be stepped up wherever admissible, w.r.t. the minimum pay of the corresponding scale, not the higher replacement scale. The corresponding scale of pre-revised IVth CPC of Rs. 1400-2300 is Rs. 4500-7000 in Vth CPC, not Rs. 5000- 8000, as has also been reiterated in item No. 9 of DOP&PW's O,M. dated 14.10.2008,

circulated vide this Ministry's letter of even number dated 18.11.2008. "

I find that the applicant has challenged his revised PPOs Annex. A/1 & A/2 but foundation of the revision of his pension is based on RBE Nos. 181/2010 and 24/2010 (Annex. R/2). I do not find any discrepancy so far as execution or implementation of the aforesaid circulars are concerned. Therefore, based on these set of facts, the Annex. A/1 & A/2 PPO cannot be said to be illegal. The applicant did not challenge any of the statutory orders, which are foundation of the issuance of revised PPO.

4. The facts of the case are similar to the Tikama's case (supra), hence I need not delve any further in the matter. Accordingly, Notice dated 10.08.2015 (Annex. A/3) is quashed in light of proposition of law laid down by the Hon'ble Apex Court in Rafiq Masih's case. Recovery made on account of excess pension paid is held to be illegal and shall be refunded to the applicant within 02 months. The respondents are directed to pass appropriate orders for correcting the same. However, I find no reason to interfere in Annex. A/1 & A/2 PPO dated 05.08.2013 regarding fixation of revised pension of the applicant. The OA is thus disposed of with no order as to costs.


[Praveen Mahajan]
Administrative Member

R/C
D/Jan
11/12/16

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