

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 290/00090/15

Jodhpur this the 21st April, 2016

CORAM

Hon'ble Ms Praveen Mahajan, Administrative Member

Hema Ram S/o Shri Pusha Ram, aged 70 years, R/o H.No. 183, Indra Colony, Ratanada, Jodhpur (Rajasthan).
(Retired as mate while working under Garrison Engineer, Air Force, MES Station, Jodhpur)

.....Applicant

(By advocate : M.S. Godara)

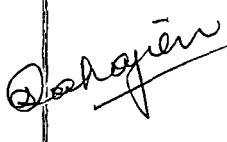
Versus

1. Union of India, through Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. PCDA (Pension), Dropadi Ghats, Allahabad (U.P.).
3. Garrison Engineer, Air Force, MES Station, Jodhpur.
4. Branch Manager, State Bank of India, Air Force Branch, Jodhpur (Rajasthan).

(Respondents No. 1 to 3 by Advocate : Mr K.S. Yadav)
(Respondents No. 4 by Advocate : Mr J.K. Chanda)

.....Respondents

ORDER (Oral)


The present application has been filed under section 19 of

- (i) *That this application may kindly be allowed.*
- (ii) *That the order dated 23.01.2015 (Annex. A/1) may be quashed and the respondents may be restrained from effecting any recovery from the pension of the applicant.*
- (iii) *The respondents may be directed to credit recovered amount of pension in his account with interest @ 9% per annum.*
- (iv) *Any other relief which this Hon'ble Tribunal deems just and proper in favour of the applicants may be passed.*

2. Heard all the parties.

3. Ld. Counsel for applicant submitted that the respondents have made recovery from the pension of the applicant vide Annex. A/1 dated 23.01.2015 without intimation or prior notice to the applicant and action of the respondents is highly arbitrary, unjust and improper.

4. Per contra, Ld. Counsel for respondents No. 1 to 3 submitted that respondents No. 1 to 3 have not ordered any recovery from the pension of the applicant.

5. Ld. Counsel for respondent No. 4 submitted that the excess payment has been made to the pensioner by the respondent No. 4 which is being recovered. He further submitted that the similar controversy in OA No. 290/00305/2015 (Umed Raj Singhvi vs UOI & Ors) has been set to rest by this Hon'ble Tribunal vide order dated 05.04.2016.

6. Considered the rival contentions and also perused the record. The controversy involved in the present case is similar involved in OA No. 290/00305/15 decided on 05.01.2016 by the Division Bench of this Tribunal, in which following order was passed :

payment is made. Now the Bank is only a route through which Government made payment and Bank cannot be made to bear the burden of an excess payment under even the Indian's Contract Act there cannot be any unmerited gain or advantage to a person without restitution. Therefore, if excess payment had been recovered it is not incorrect if it is done in easy installments without interest. Therefore, OA will not lie because Bank is a private party and hence Sahib Ram's judgment of the Hon'ble Apex Court is not applicable in the instant case. But then, it is made clear that the Bank can only recover the exact excess amount paid and not interest as there is no fault on the part of the applicant and even then only in long installments as the fault is fully on the Bank's side."

7. Accordingly, OA is disposed of in light of order passed in OA No. 290/00305/2015 (Umed Raj Singhvi vs UOI & Ors) and it is made clear that the respondent No. 4 can only recover the exact excess amount paid and not interest as there is no fault on the part of the applicant and even then only in long installments as the fault is fully on the Bank's side.


[Praveen Mahajan]
Administrative Member

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