

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.572/2001.

Monday this the 13th day of August 2001.

CORAM:

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

C.K.Mathew,
Retired Chief Reservation Supervisor,
resident at: door No.26/2407,
V.V.Road, Thevara, Kochi-13. Applicant

(By Advocate Shri T.A.Rajan)

vs.

1. Union of India, represented by the General Manager, Southern Railway, Chennai -3.
2. The Senior Divisional Commercial Manager, Southern Railway, Thiruvananthapuram.
3. The Divisional Accounts Officer, Southern Railway, Thiruvananthapuram.
4. The Manager, State Bank of India, Perumanoor Branch, Thevara. Respondents

(By Advocate Shri Mathews J.Nedumpara)

The application having been heard on 13th August 2001 the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant retired on superannuation on 31.1.1998 as Chief Reservation Supervisor. His retirement benefits were given to him on the basis of a non-liability certificate issued. While so he was served with a notice on 7.8.2000 (A1) informing him that a debit of Rs.2211/- is outstanding against him of the year 1977 and calling upon him to make remittance. The applicant immediately replied by A2 stating that until his retirement no debit notice or error advice was ever served on him, that even after retirement, no such error advice was given

to him as no such advance against him was outstanding and DCRG and other benefits were given to him as there was no dues from him and therefore he was not liable to remit Rs.2211/- as called upon by A-1 order. The applicant is now aggrieved by the order dated 18.12.2000 issued by the Divisional Accounts Officer to the Manager, State Bank of India, Permanur, Cochin, the Pension Disbursing Authority of the applicant, directing recovery of a sum of Rs.2211/- from the relief of the applicant's pension. The applicant sent a representation to the Senior Divisional Personnel Officer, against this on 10.1.2001. However, finding that the pension disbursing authority has recoverd the amount from his pension with effect from 31.5.01, the applicant filed this application seeking to set aside A-3 and for a direction to the respondents to refund the recovered amount from the applicant with consequential benefits. It has been alleged in the application that there was no dues from the applicant to the Railway Administration. As per the Railway Services (Pension) Rules 1993, respondents are not entitled to recover any amount from the relief of the applicant's pension.

2. The respondents in their reply statement seek to justify the impugned action on the ground that while the applicant was working in Kottayam, he had failed to hand over 11 concession vouchers, which ~~were~~ resulted in a loss of Rs.2211/- that an error advice was given to him on 14.7.97 but he never produced concession vouchers of the lost amount and therefore the amount is being recovered from his relief on pension, as provided for under rule 15 of the Railway Services (Pension) rules.

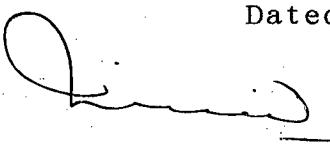
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3. We have heard the learned counsel on either side and have perused the pleadings and materials placed on record and have also read the relevant rules on the subject.

4. The respondents have not produced any evidence to show that an error advice was served on the applicant while he was in service. They also have not produced any evidence to show that the liability was fixed on the applicant after due notice given to him. Under these circumstances, we are of the considered view that, long after his retirement on superannuation the respondents cannot recover the amount of Rs.2211/- from the applicant, unless it is established in an enquiry that the applicant was guilty of mis-conduct and has caused loss as provided for in Rule 8 of the Railway Services(Pension) Rules 1993 and a clause(ii) of sub rule 4 of Rule 15 of the Railway Services (Pension) Rules 1993.

5. In the result, the application is allowed, the impugned order is set aside and the respondents are directed to refund the applicant the amount which was recovered from his relief on pension on the basis of A-3. This shall be done within a period of one month from the date of receipt of a copy of this order. No costs.

Dated the 13th August, 2001.


T.N.T.NAYAR
ADMINISTRATIVE MEMBER

rv


A.V.HARIDASAN
VICE CHAIRMAN

List of Annexures referred to in the order:

A-1: True copy of letter No.V/C.504/OS/Retd/2000 dated 7.8.2000 of the 2nd respondent.

A-2: True copy of applicant's representation dated 20.8.2000 addressed to the 2nd respondent.

A-3: True copy of P.500/TVC/P/0604203989 dated 18.12.2000 of the 3rd respondent.