

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW**

Original Application No: 165/2005

This the 4th day of October, 2013.

HON'BLE SHRI NAVNEET KUMAR, MEMBER(J)

Gopal Narain Khare,
Aged about 63 years,
S/o Late Sri G. P. Khare,
R/o House No. 956, Sector-9,
Indira Nagar, Lucknow.

Applicant

By Advocate Sri K.R. Verma.

Versus

1. Union of India through General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Lucknow.
3. Senior Divisional Accounts Officer,
Northern Railway, Lucknow.

Respondents

By Advocate Sri Praveen Kumar for Sri S. Verma.

(Reserved on 24.9.13)

By Hon'ble Sri Navneet Kumar Member (J)

The present O.A. is preferred by the applicant under Section 19 of the AT Act, 1985 with the following reliefs:-

“That this Hon'ble Tribunal may graciously be pleased to direct the opposite parties to immediately consider the applicant's representation which refers to the deduction of the amount which was payable to the applicant.

Any other order which is deemed just and proper in the circumstances of the case.”


2. The said O.A. was finally decided by the Tribunal vide order dated 29.4.2005 where the respondents were directed to dispose of the representation of the applicant regarding release of retrial benefits by a detailed and speaking order within two weeks from the date of receipt of a copy of the order. The applicant feeling



aggrieved by the said order, preferred the Writ Petition before the Hon'ble High Court and the Hon'ble High Court after setting aside the order dated 29.4.2005 remanded back the case to the Tribunal directing it to restore the Original Application No. 165 of 2005 to original number and adjudicate the controversy with regard to petitioners right in accordance with law. As such, the O.A. was heard finally.

3. The claim of the applicant is that after rendering satisfactory service with the respondents, superannuated from the post of Station Superintendent on 30. 6.2002. After the retirement, the applicant was paid superannuation benefits by means of Pension Payment Orders issued by the opposite parties. The applicant being not satisfied with certain payments, preferred O.A. 500 of 2003, which was disposed of by means of an order dated 9.1.2003 and thereafter the applicant was served with an order dated 3.8.2004 whereby, it is pointed out that certain amount was deducted from the gratuity of the applicant and the amount was already paid to the applicant. The learned counsel appearing on behalf of the applicant submits that before issuing such order, no opportunity of hearing was given to the applicant. As such, the present order is bad in the eyes of law and liable to be quashed.

4. The learned counsel appearing on behalf of the respondents pointed out that the bare reading of the order dated 3.8.2004 is clear that the amount withheld from the gratuity is due to certain shortages which was deducted after inspections. Apart from this, it is also pointed out by the respondents that the applicant has not challenged this order and has only prayed for payment of withholding of amount. The learned counsel for the respondents failed to indicate that any opportunity is given to the applicant before passing the order dated 3.8.2004.



5. Heard the learned counsel for the parties and perused the record available on the file.

6. The applicant was in the respondents organization superannuated on 30.6.2002 and after the superannuation, the respondents have issued certain pension payment advice through PPO. The applicant not being satisfied with the said payment, preferred the O.A. 500/2003 and after the decision of the Tribunal, the respondents passed an order on 10.11.2004 whereby, sum of Rs. 183317/- was paid to the applicant towards his gratuity amount and sum of Rs. 34372/- has been paid as interest for the period w.e.f. 1.10.2002 to 31.10.2004. The applicant was also informed about the deduction of Rs. 45324/- on account of certain shortfalls and based on inquiry, though the applicant has not challenge this order of deducting his amount of Rs. 45324/-. Apart from this, both the learned counsel appearing on behalf of the parties fail to indicate that whether any opportunity was given to the applicant before passing this order of certain deductions made from the gratuity. Not only this, the applicant has also not challenged the order dated 3.8.2004 whereby the sum of Rs. 45324/- was deducted. But since the applicant has superannuated from service, as such, keeping in view the interest of justice in mind, I deem it appropriate to pass direction upon the respondents.

7. Accordingly, the respondents are directed to provide an opportunity to the applicant in response to the deductions made from the gratuity from the applicant in terms of letter dated 3.8.2004 and in case, the said amount is not liable to be deducted, the same may not be deducted from the applicant and in case it is already deducted, the amount may be refunded to the applicant without interest. The entire exercise may be done

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within a period of three months from the date of receipt of a certified copy of this order.

8. With the above observation the O.A. stands disposed of. No order as to costs.

U R. Agarwal
(Navneet Kumar)
Member (J)

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