

Central Administrative Tribunal  
Lucknow Bench

OA No.392/2003

Lucknow this the 16th day of December, 2003.

Hon'ble Mr. Shanker Raju, Member (J)

Hon'ble Mr. S.P. Arya, Member (A)

D.C. Srivastava S/o late R.D. Srivastava,  
R/o E-168, Sector M, LDA Colony,  
Ashiana Kanpur Road, Lucknow  
and 12 others (as per memo of parties)

-Applicants

(By Advocate Shri A. Moin)

-Versus-

1. Union of India through the  
General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.

2. Divisional Railway Manager,  
Northern Railway, Hazratganj,  
Lucknow.

-Respondents

(By Advocate Sh. Umesh Srivastava, proxy for Sh. M.K. Singh,  
Advocate)

Mr. Shanker Raju, Member (J): ORDER (ORAL)

Heard the parties.

2. Applicants impugn respondents' order dated 23.7.2003, whereby recovery of honorarium paid to them for the period 1.5.2000 to 31.3.2001 has been ordered to be recovered in equal instalments from the regular salary of August, 2003. The aforesaid recovery has been stayed by this Court.

3. Applicants alongwith similarly circumstance staff were paid honorarium in view of Railway Board's letter dated 1.10.1982 for grant of honorarium to the staff dealing with the final settlement cases.

4. Applicants had been paid honorarium for the aforesaid period. By the impugned order recovery has been effected, giving rise to the present OA.

5. Learned counsel for applicants Sh. Moin contends that the aforesaid recovery violates principles of natural justice, as before recovery ~~evil~~ consequences ensued but no reasonable opportunity to show cause has been afforded to applicants.

6. It is further stated that no reasons have been assigned to unsettle the settled position for grant of honorarium which is in vogue since 1978. As no fault is attributable to applicants for

grant of honorarium, recovery of the same cannot be countenanced.

7. On the other hand, respondents took a preliminary objection of not exhausting the remedy by stating that applicants have not preferred any representation or appeal against the order, which violates the provisions of Section 20 of the Administrative Tribunals Act, 1985.

8. We have carefully considered the rival contentions of the parties and perused the material on record. As no statutory remedy has been provided against the recovery, provisions of Section 20 of the Act would not apply and hence the objection of the respondents is over-ruled.

9. Admittedly, before effecting any recovery of the honorarium respondents have not afforded any reasonable opportunity to applicants, which is an essence of fair play and is in consonance with the principles of natural justice. The order, on this ground alone, is vitiated.

10. Moreover, we find that in similar circumstances when the amount had been paid to the government servant without his misrepresentation and without any fault attributable to him the same cannot be recovered as settled by the Apex Court in various pronouncements.

11. In the result, for the foregoing reasons, OA is disposed of by setting aside the impugned order. However, this shall not preclude respondents from adopting the due process of law before effecting any recovery from applicants, but before doing so they must consider our observations made above. Till then respondents are restrained from effecting any recovery from applicants. No costs.

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(S.P. Arya)

Member (A)

S. Raju  
(Shanker Raju)  
Member (J)