

Central Administrative Tribunal, Lucknow Bench, Lucknow
Original Application No. 596 of 2006

This the 03rd day of August, 2007

Hon'ble Shri N.D. Dayal, Member (A)

V.C. Padmanabhan, aged about 60 years son of late K.V. Chinnan, resident of Hosue No.SSI/ 520 Sector A, Sitapur Road Yojana, Aliganj, Lucknow

Applicant

By Advocate:- Sri Surendran P

Versus

1. Union of India through the Secetar, (R&AW) Cabinet Secretariat, ,Govt. of India, New Delhi.
2. Dy. Commissioner (Admn.) Special Bureau, Govt. of India, Lucknow
3. Director of Accounts, Cabinet Secretariat (SW) Head Quarter , New Delhi.

Respondents

By Advocate: Sri A.P. Usmani

ORDER (ORAL)

BY HON'BLE SHRI N.D. Dayal, Member (A)

The applicant has sought reimbursement of the amount recovered from the DCRG and GPF. The respondents in their counter affidavit have explained that the amount had to be adjusted from the DCRG because of wrong fixation of the date of increment which was later on corrected by them and which further required consequential modification in the amounts paid because of which an amount of Rs. 9430/- was recovered from the DCRG. Learned counsel for the applicant submits that no where is there any indication in the reply filed by the respondents that the applicant was at fault — or misrepresented or played any fraud in the matter. In fact , it has been stated in the counter reply that the mistake was detected by audit examined by Special Bureau and later on discrepancy was set right . Therefore, it is submitted that in terms of the judgment of the Hon'ble Supreme Court in the case of Shyam Babu Verma Vs. Union of India and others reported in 1994 2 SCC 521, the respondents were not justified in having recovered the amount when the applicant was not at fault for the excess payment to him.


2. It is further submitted by the learned counsel for the applicant that there is also a deduction from the GPF which amounts to Rs. 1,728/- and the counter affidavit is silent as to the reason for such deduction. Therefore, keeping in view the fact that

the GPF is the applicant's own money and the settled law that no adjustment out of the GPF is permissible except in accordance with law. The respondents should in all fairness reimburse the amount which has been deducted from the GPF of the applicant. It is not the case of the respondents that even with regard to deduction from the GPF, it was due to any lapse or misrepresentation on the part of the applicant.

3. Learned counsel for the respondents states that the deduction became necessary in view of the fact that the applicant was paid excess amount to which he was not entitled, therefore the mistake was corrected. Necessary steps were taken to adjust the amount from the retirement dues.

4. In view of the above submissions, it is felt that stand taken by the applicant carries considerable force in view of the settled law. Keeping in view the above facts and circumstances, it would not be sustainable for the respondents to deduct the amount from the DCRG even though provision of Rule 73 of the CCS (Pension) Rules has been cited in this regard. The Rule provides for adjustment and recovery of dues at the time of superannuation but it also insists upon the authorities to complete the entire exercise well before the date of retirement. The rule does not carry any mandatory provision for recovery ^{by law} ~~pending~~ to penal consequences when the employee himself is not at fault or responsible for any misrepresentation. It also does not overrule the settled law which has been noticed above. Retirement dues are a payment in view of long service rendered by the employee and cannot be treated as a bounty.

5. The O.A. is therefore, allowed. The impugned order is set aside. The respondents are directed to refund the amount of deduction on account of both DCRG and GPF within a period of 6 weeks from the date a certified copy of this order is received. The question of interest may be considered by the respondents in terms of Rule 68 of the CCS (Pension) Rules, 1972. No costs.


Member (A)

HLS/-