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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.388 of 1990 (L)

S.K. Nigam Applicant

Versus

Union of India & Others Respondents

Hon. Mr. Justice K. Nath, V.C.

Hon. Mr. A.B. Gorthi, Member(A)

(By Hon. Mr. Justice K. Nath, V.C.)

This application under Section 19 of the Administrative Tribunals Act, 1985 is for quashing an order dated 8.8.89 contained in Annexure-1 whereby certain amounts alleged to have been paid to the applicant during the course of employment to be in excess of the amount for which he was entitled were ordered to be recovered from the applicant's amount of relief payable on his pension. The applicant retired some time back and after his retirement a sum of Rs.3897-40 was sought to be recovered by impugned Annexure-1.

2. The simple case of the applicant is that relief on pension is part of pension and therefore no recovery can be made in view of the provisions of the Pension Act, 1971. Notices have been issued to the respondents to show cause. Shri Arjun Bhargava made appearance on behalf of the respondents. He relied upon the Railway Board's letter No. F(E) III/85 PN 1/30 dated 20.9.85 in which it is stated that the

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question of recovery of Govt. dues from relief admissible on pension had been examined in consultation with the Ministry of Finance and it was decided that relief payable on pension is not covered by Pensions Act and hence there may be no objection to the recovery of such amount from the pensioner's relief.

3. An identical circular issued by the Ministry of Finance in U.O. No.728-EV (A) dated 7.2.78 came up for consideration before the Principal Bench of this Tribunal in the Case of R.D.Sharma Versus Union of India and Others (1988) 8 ATC 26 and it was held that relief on pension is part of pension and that the aforesaid circular of the Finance Ministry has no legal binding force. (see para 26). Same view was adopted in the case of Smt.Yashwanti Sood Vs. Union of India and Others (1988) 7 ATC 717.

4. There is no reason to take a different view in the matter of the circulars by the Railways which itself is based upon the opinion of the Ministry of Finance.

5. The application is allowed and the impugned Annexure-1 dated 8.8.89 so far as it directs recovery of Rs.3897-40 from the relief payable on pension to the applicant is struck down.

There will be no order as to costs.

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Member (A)

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Vice Chairman