

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA.

REGISTRATION NO. O.A. 267 of 1996

DATE OF ORDER : 16.03.2001

Kamal Deo Choubey, S/o Late Lakshman Choubey,
resident of D/172 Shanta Kunj, Rajajee Puram, Lucknow,
17 (U.P.), retired Chief I.O.W/N. E. Railway, Darbhanga.

.....APPLICANT.

By Advocate Shri Sudama Pandey.

Versus

1. The Union of India through the General Manager,
N.E. Railway, Gorakhpur (U.P.)
2. The Divisional Rail Manager, N.E. Railway,
Samastipur, Bihar.

.....RESPONDENTS.

By Advocate Shri P.K. Verma.

C O R A M

Hon'ble Shri Lakshman Jha, Member (J)

Hon'ble Shri L. Hmingliana, Member (A)

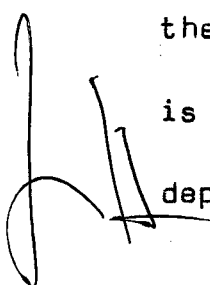
O R D E R

L.Hmingliana, Member (A):- The applicant retired
on superannuation from the railway service on 30
30.9.1995, when he was the Chief Inspector of Works,
Darbhanga under the DRM, Samastipur. His DCRG and
leave encashment amounts were withheld. His prayer
in this OA is for immediate payments of these amounts
together with ~~the~~ penal interest at the rate of 20
per cent.

2. The amount of the DCRG, as given by the applicant in his OA, is Rs. 1,39,656/- , but the amount is stated to be Rs. 1,10,517/- in the written statement filed on behalf of the respondents. The leave encashment amount is stated to be Rs. 67,712/- in the OA, but the amount is not mentioned in the written statement.

3. It is the case of the applicant that even though under the Ministry of Railway (Railway Board)'s letter dated 16.12.1991, withholding and withdrawing of pension and recovery ^{from the pension} of pecuniary loss caused to the government by the pensioner ~~from the pension~~ are permissible, if he is found guilty in a departmental or judicial proceedings, the same cannot apply to his case, as he was never found guilty in any such proceedings. The applicant has devoted a major portion of the OA for expressing his grievances about the treatment meted out to him in the matter of his TA for shifting his household effects to his home town after his retirement, but that is only ^a peripheral issue which is not relevant to the merits of his claim.

4. In the written statement filed on behalf of the respondents, it is stated that a sum of Rs.1,75,496.24 is to be recovered from the applicant "as per the departmental officer as advised vide letter no.



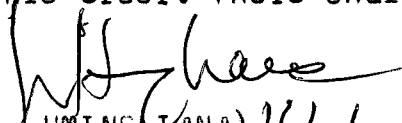
W/155/Charge-Paper/200 dated 5.2.1996 on account of the aforesaid lapses, as such his DCRG amounting to Rs. 1,10,517/- and leave encashment of 240 days has been withheld " (sic). The "aforesaid lapses" attributed to the applicant, as given in the written statement are on account of shortage of coal tar allegedly under his supervision when he was the Chief Inspector of Works, Darbhanga during the period from 7.1.1991 to 15.4.1991. It is stated that the applicant was working as CIOW , Darbhanga for the period from 7.1.1991 to 15.4.1991, and again for the period after the retirement of Shri Eappen, and that the stock ~~of~~ verification revealed a shortage of a large quantity of coal tar , and ~~the~~ fact finding inquiry was conducted after providing to him reasonable opportunity, and the inquiry officers submitted report on 20.7.1993, and it was considered that Rs. 78,032.44 was recoverable from him. But in the next paragraph, which is at the top of page 3 of the written statement , it is stated that a sum of Rs. 1,75,496.24 is ^{to be} recovered from ^{the applicant} ~~Shri Choudhary~~. It is not possible to make out how this high figure of the amount of loss was arrived at. The statement of the applicant that he was ~~never~~ found guilty in a departmental inquiry or judicial proceedings is denied as misconstrued and misconceived, but

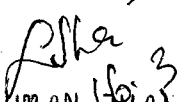
nowhere in the written statement is it stated that the applicant was found responsible for the alleged shortage after a departmental inquiry. As regards the statement of the applicant that withholding and withdrawing and recovery from pension is permissible in the event of the pensioner being found guilty in departmental or judicial proceedings is concerned, it is stated in the written statement that the letter referred to by the applicant is not applicable to the instant case, which is not at all ^a satisfactory reply.

5. There being no evidence of the applicant having been proceeded against in a departmental inquiry and held responsible for whatever shortage of coal tar that might be, the respondents were not and are not empowered to make recovery from his ^{ement} retirement benefits. The applicant is entitled to immediate payment~~s~~ of his DCRG and leave encashment amounts in full together with ~~the~~ interest. However, it would appear that the respondents had their own reason~~s~~ for withholding his DCRG and leave encashment amounts, though ^{the} reason is found to be unsustainable, it will not be fair to impose upon them penal interest on the amounts.

6. The application is allowed. The amounts

of DCRG and leave encashment payable to the applicant shall be paid to him in full together with interest at the rate of 12 per cent , which will accrue after the expiry of three months from the date of retirement of the applicant, and the payments of ^{the} principal amount and the amount of interest shall be made to him within three months from the date of communication of this order. There shall be no order as to costs.


(L. HMINGLANA) 16/3/01
MEMBER (A)

 3. 2001
(LAKSHMAN) (A)
MEMBER (J)

/CBS/