

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.**

O.A. No. 209 of 2006 

Date of order : 16.3.07

C O R A M

Hon'ble Ms. Sadhna Srivastava, Member (J)

Parashuram Pandey, s/o Late Shri Narain Pandey, R/o
Gramin Bank Colony, Rauza Canal Road, Fazalganj
Sasaram (Rohtash) Bihar

....Applicant

By Advocate : The applicant in person.

Vs.

1. The Union of India through the General Manager, East Central Railway, Hajipur (Bihar).
2. The General Manager, East Central Railway, Hajipur (Bihar).
3. The Divisional Railway Manager, E.C. Railway, Sonapur.
4. The Senior Personnel Officer, East Central Railway, Sonapur (Bihar).
5. The Senior Operating Manager, East Central Railway, Sonapur. (Bihar).

....Respondents

By Advocate : Shri R.N. Choudhary.

O R D E R

Sadhna Srivastava, M (J):-

The applicant is aggrieved with the non-settlement of retiral dues. There have been round of litigation.

In the first instance OA No. 320 of 2002 was filed which was



decided on 16.4.2002 with a direction to decide the representation of the applicant. Pursuant to this order, DRM, E.C Railway Sonapur passed an order dated 5.10.2002 taking into account the representation of the applicant dated 7.12.2001. The applicant being dissatisfied filed CCPA No. 41 of 2003 which was ^{decided} on 27.7.04 giving liberty to the applicant to seek appropriate remedy against the impugned order dated 5.10.2002, the respondents were also given some directions. The matter was not resolved. The applicant filed OA No. 779 of 2004. Again the said OA was decided on 13.9.2005 with a direction to the respondents to settle the dues within two months by passing speaking order. Pursuant to the same, the impugned order dated 3.10.2005, as contained in Annexure A/7 has been passed.

2. The facts are that the applicant was initially appointed as work Supervisor on 1.5.1961 in the Railways. He served on various post and finally promoted as Station Superintendent, Desri in the year 1998 from where he took voluntary retirement on 31.12.2000 on account of ill health.

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Thereafter, his provident fund , GIS, transfer allowance, commuted amount of pension were paid to him between April to June, 2001. The dispute in regard to (a) Rs. 28,307.00 recovered from gratuity on account of overpayment (b) amount of Rs. 300.00 deposited as security money in March, 69 while posted as Assistant Station Master, Izzatnagar, (c) amount of Rs. 4980.00 deducted towards income tax, (d) the amount of Rs. 7532.00 as commercial debit recovered from gratuity, (e) T.A claim for August, 2000 (f) the amount of pension fixed at Rs. 3703.00 instead of 3720.00, still remains pending. I am of the opinion that finality should be given to the matter on the basis of material available on record. The parties have been given sufficient opportunity. If they have failed to bring relevant material on record, they must be made to bear its consequences.

3. The respondents have withheld a sum of Rs. 28,307.00 from gratuity on account of over-payment. The details have never been provided as to how the over-payments took place. The respondents have only taken

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shelter of rule 15 of Railway Services (Pension) Rules, 1993, which provides for adjustment of government dues from pensionary benefits. There are some over-payments which could only be recovered if there was mis-representation or inducement or fault on the part of the employee. There are a number of decisions on this point. The case of Shyam Baboo Verma vs. UOI, 1994 SCC (L&S) 683 and case of Sahib Ram vs. State of Haryana, 1995 SCC (L&S) 248, may only be cited, laying down the above preposition of law. It is also relevant that this Tribunal in para 4 of the order dated 27.7.2004 in CCPA 41 of 2003 had clearly made ^{an} observation about the obligation of the respondents to inform the details of the amounts under various heads withheld from gratuity. The respondents have failed to discharge their obligation. In the circumstances, this Tribunal has no other option at this stage of prolonged litigation but to order for refund of amount.

4. The sum of Rs. 300.00 deposited by the applicant towards security amount has been denied to him, virtually

without any cogent reason. The only reason given by the respondents is that it was time barred. It has not been shown to me as to what time limit has been prescribed for refund of security amount. To my mind, security amount has to be refunded after retirement. No limitation is attracted for refund of security deposit. It has been withheld by the respondents without any good reason. It is liable to be refunded.

5. The amount of Rs. 4980.00 deducted towards payment of income tax has been explained by means of a chart annexed to the supplementary written statement. Therefore, I am of the opinion that it has been justly recovered from gratuity.

6. The amount of Rs. 7532.00 as commercial debit has also been explained in the order of DRM, E.C railway, Sonapur (Annexure A/2). The applicant has not raised any specific objection. The applicant has made a vague and general allegation without replying to the specific ticket numbers mentioned in the above order of DRM. Therefore, I do not find any reason to allow this amount to be refunded to



the applicant.

7. The applicant alleges that he has been paid less amounts towards TA claim for August, 2000. DRM , E.C Railway, Sonapur in its order dated 3.10.2005 (Annexure A/7) has explained it. The applicant has signed the mess register. Therefore, an inference has been drawn that he had availed boarding facility. The applicant has not filed any evidence before the Tribunal to show that he had not availed the boarding facility. Therefore, the claim of the applicant cannot be sustained in this regard.

8. The last point is about the amount of pension. It has been explained by the DRM , Sonapur in his order dated 5.10.2002 (Annexure a/2) vide para 7 as to how the pension of Rs. 3703/- has been arrived at. The applicant has not shown to the Tribunal as to why the said calculation may not be accepted. It could only be done through a rejoinder. The applicant has chosen not to file rejoinder. In the circumstances, no relief is due to the applicant in this regard.

9. Resultantly, the OA is partly allowed. The



respondents are directed to refund the amount of Rs. 28,307.00 as part of the gratuity with interest @ 9 % per annum with effect from 1.4.2001 till the date of actual payment. The respondents are further directed to refund the sum of Rs. 300/- held by them as security deposit. The other claims of the applicant are dismissed. No order as to the costs.


[Sadhna Srivastava] M [J]

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