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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 117/87

199

T.A. NO:

DATE OF DECISION 1.7.92

Shri R.G. Huddar

Petitioner

Shri D.B. Watharkar

Advocate for the Petitioners

Versus

Division Railway Manager
Bombay V.T.

Respondent

Shri R.K. Shetty.

Advocate for the Respondent(s)

CORAM:

The Hon'ble ~~Mr.~~ Ms. Usha savara, Member (A)

The Hon'ble Mr. J.P. Sharma, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? L
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

mbm*

Usha Savara
(USHA SAVARA) 1.7.92
MEMBER (A)

(9)
CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 117/87

Shri R.G. Huddar

.... Applicant

Vs.

Divisional Railway Manager
Bombay V.T.

... Respondent.

CORAM: Hon'ble Ms. Usha Savara, Member (A)

Hon'ble Shri J.P. Sharma, Member (J)

Appearance

Shri D.B. Watharkar for
the applicant.

Shri R.K. Shetty, for
the respondents.

JUDGEMENT

Dated: 1-7-92

Per

(Ms. Usha Savara, Member (A))

This O.A. has been filed challenging the recovery of Rs. 2538.88 made by the respondent from the salary of the applicant, as well as praying for a direction to the respondents to pay to the applicant bonus for the year 1980-'81.

The learned counsel for the applicant, Mr. Watharkar submitted that after the applicant superannuated on 30.9.'79 he was re-employed as Asstt. Coaching Clerk from 4.10.'79 to 1.9.'81. During this period, some amount was deducted from his salary, but he was not given any show cause notice, nor informed as to what was the purpose and under what provision the deduction was made. Subsequently, he received letter dated 19.11.'86 from the Bank of Maharashtra, Dadar informing him that a sum of Rs. 2538.88 had been deducted from his pension. No prior notice was given for this, Therefore, the applicant has been denied the opportunity to explain his stand in the matter.

Mr. R.K. Shetty, learned counsel for the respondents contested the applicant's claim, and submitted that by mistake, the applicant had been given D.A. relief both on his pension and his salary after his re-employment. During the time he was in service i.e. from 4.10.'79 to 1.9.'81, a sum of Rs. 476.80 was deducted. The total amount to be recovered amounted to Rs. 3015.68 N.P. only. The balance of Rs. 2538.98 N.P. was deducted when the audit pointed out the mistake in giving relief on pension and salary both. The applicant was aware of the deduction being made from his salary, therefore, it was not necessary to give notice. So far as bonus for 1980-81 was concerned, the arrangements are being made to pay the applicant after preparing necessary papers, and getting the competent authority's sanction and the amount will be credited to Railway's account and recovery will be adjusted.

We have heard both the counsel. The facts are undisputed. By mistake, the applicant was given DA relief on his pension as well as his salary. When the mistake was discovered, the correction was made by recovering the amount. Though, principles of natural justice have been violated as no notice was given to the applicant of the recovery to be made, yet to ask the respondents to give him show cause now, after the recovery has been made, would merely be an eyewash. It is an accepted fact that any Govt. servant can be given DA relief only in respect of either pension or salary. In view of the facts, we are not inclined to interfere with the proceedings.

The operation of notice dated 19.11.'86 has already been completed, and the relief claimed cannot now be allowed. It is admitted by the respondents that

the bonus for the year 1980 - '81 is under process and the same will be paid to the applicant. As considerable time was lapsed, the respondents should complete the process and pay the applicant his bonus within a period of 3 months from the date of receipt of a copy of this order. The application is disposed of in the above terms, with no order as to cost.

J. P. Sharma

(J.P.SHARMA)
MEMBER(J)

1.7.82

Usha Savara

(USHA SAVARA) 1.7.82
MEMBER(A)

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