

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHO.A.NO.: 738 OF 2005

[Patna, this Wednesday, the 13th Day of December, 2006].

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C O R A M

HON'BLE SHRI JUSTICE P.K.SINHA, VICE-CHAIRMAN.

.....

Gonar Sah, son of Gobardhan Sah, retired Driver 'A' under D.R.M.,
E.C.Railway, Sonpur resident of village/P.O.: Garhara, District-Begusarai.

.....APPLICANT.By Advocate :- Shri Sudama Pandey.

Vs.

1. The Union of India through General Manager, E.C.Railway, Hajipur [Vaishali].
 2. The Divisional Railway Manager, E.C.Railway, Sonpur.
 3. The Divisional Financial Manager, E.C.Railway, Sonpur.
 4. The Postmaster, Head Post Office, Begusarai.RESPONDENTS
- By Advocate :- Shri S.K.Singh, ASC.

O R D E R [ORAL]

Justice P. K. Sinha, V.C.:- Both the sides have been heard and, in the circumstances of the case, this application is being disposed of at this stage.

2. The applicant superannuated from Railway service w.e.f. 31.05.1985 and was in receipt of pension w.e.f. 01.06.1985 along with usual dearness relief. The applicant claims that suddenly the pension and the family pension were reduced vice revised PPO dated 07.03.2001 without any notice or show cause having been issued for that. In addition to the reduction of pension/family pension, the authorities also ordered, vice Annexure-A/3, for recovery of a sum of Rs.216096/-.



The applicant thereafter approached this Tribunal in OA 482 of 2002 which was disposed of by order dated 30.07.2002 vice Annexure-A/4. This Tribunal, without going into the merits of the case, directed the respondent no.2 [DRM, N.E.Railway, Sonpur] to treat the OA as a representation and, on consideration of the same, record a speaking order within a given period. The applicant in that case had relied upon a decision of the Principal Bench of CAT at New Delhi in OA 2425 of 2000 [S.R.Dhingra & Ors. Vs. Chairman, Railway Board, New Delhi] and was granted liberty to also transmit a copy of the aforesaid decision to the respondent no.2. Speaking order was, accordingly, recorded on 29.01.2003 in which, while ordering continuance of stay on recoveries till an interim/final order was passed by Hon'ble High Court of Delhi against the order of the Principal Bench in OA 2425 of 2000, it was also stated that, thereafter, the same could be modified/withdrawn in accordance with the order of the High Court of New Delhi.

3. The learned counsel for the applicant has submitted that based upon the decision of the Principal Bench in the case of S.R.Dhingra & Ors. [supra], this Bench and several other Benches have granted the same relief to similarly situated persons. It was also submitted that since some Benches of the Tribunal had taken a different view, the matter was referred to a larger Bench of the Tribunal. The Delhi High Court had also directed that the larger Bench should be constituted at the earliest. A larger Bench was thus constituted at the Principal Bench of the CAT to consider OA 777 of 2002, along with other OAs which Bench considered all such orders and vice their

Q.M.C.

order dated 19.07.2005, approved the order rendered by the Principal Bench in the case of S.R.Dhingra [supra]. Learned counsel submitted that on the basis of the decision in the case of S.R.Dhingra, and later decision in the same matter by the Full Bench of CAT, in many OAs orders were issued for issuance of revised PPOs also including the component of running allowance, of similarly situated Railway employees. By that decision of the Principal Bench the Railway Board's letter dated 29.12.1999 was quashed on the basis of which modified PPOs reducing the pension were issued. Copies of such orders granting similar reliefs have been filed, including the order of the Full Bench of CAT.

4. The learned counsels for both the sides have agreed that against the judgment of the Principal Bench, writ petition [C] no. 4648 of 2002 was filed before the High Court of Delhi which when was pending, the petitioners had filed a transfer petition [civil] no.[s] 278 of 2005 before the Apex Court. The Apex Court recorded order dated 09.05.2006 transferring the aforesaid writ petition from the High Court of Delhi to the Apex Court. Later, Addl. Solicitor General had also furnished a list of several similar other cases which were pending before the Delhi High Court, Punjab & Haryana High Court and Central Administrative Tribunal. The Apex Court also stayed further proceedings in those cases awaiting the judgment in the matter which was being transferred.

5. When this matter was raised earlier before this Tribunal and this Tribunal wanted to know as to whether this case was also in the list of Addl. Solicitor General against which order of stay of proceedings was made.



The learned counsel for the respondents today, in course of arguments, agreed that proceedings in this case were not stayed.

6. Now, what is relevant is that a decision in the same matter is awaiting disposal before the Apex Court. Since it has been brought to the notice of this Tribunal that a writ petition on the same matter is pending before the Apex Court which related to the decision of the Principal Bench of CAT in the case of S.R.Dhingra & Ors. [supra], it would not be desirable to pass any order this or that way before the Hon'ble Supreme Court have recorded their order on the point.

7. Learned counsel for the applicant has submitted that in many cases when same relief has been granted to several similarly situated applicants in different OAs and they are enjoying the fruit thereof, this Tribunal, since there is no stay in this particular case from the Apex Court, could record similar order which might subsequently be modified by the competent authority in accordance with the judgment of the Apex Court, when it is handed down.

8. However, it is also clear that the reliefs have been granted mainly basing on the order of the CAT in the case of S.R.Dhingra. A writ petition against that order has been withdrawn by the Apex Court for hearing before it. In such circumstance it would not be proper in judicial discipline to go ahead and record an order in this case granting relief to the applicant.

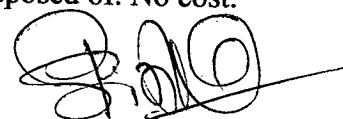
9. In the speaking order recorded pursuant to the decision of this Tribunal in earlier case as at Annexure-A/5 it is already stipulated that the stay on the recoveries would continue till an order was recorded by the



Hon'ble High Court at Delhi [now Hon'ble SupremeCourt]. That order may continue till the Apex Court have recorded their order in the matter.

10. In such circumstance, this application will also abide by the order of the Apex Court to be recorded in the same matter. If relief as granted by the Principal Bench of CAT is approved by the Apex Court, then the respondents would grant similar relief to the applicant within two months of the order of the Apex Court having been brought to their notice by the applicant, or otherwise. The arrears in such a case would also be paid within a month thereafter with statutory interest. As in the speaking order, noticed above, the recoveries so ordered from the pension or dearness relief of the applicant will remain stayed till any interim or final order is recorded by the Apex Court in that regard.

11. With these directions, this application is disposed of. No cost.



[P.K.Sinha]/VC

skj.