

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 12TH DAY OF DECEMBER, 1988

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri L.H.A. Rego, Member (A)

APPLICATION NO. 672/1988

Shri N.P. Shivanna,
749, 14th Cross,
J.P. Nagar (I Phase),
Bangalore.

..... Applicant.

(Dr. M.S. Nagaraja, Advocate)

v.

1. The Secretary (Estt.),
Railway Board,
Rail Bhavan,
New Delhi.
2. The General Manager,
South Central Railway,
Secunderabad (AP).
3. The Financial Advisor &
Chief Accounts Officer,
South Central Railway,
Secunderabad (AP).
4. The Divl. Railway Manager,
South Central Railways,
Hubli.

..... Respondents.

(Shri M. Sreerangaiah, Advocate)

This application having come up for hearing to-day,
Vice-Chairman made the following:

ORDER

This is an application made by the applicant under
Section 19 of the Administrative Tribunals Act, 1985 (Act).

2. Shri N.P. Shivanna, the applicant before us, who
initially joined service in the Indian Railways as Chargeman
on 15.1.1960, made career advancements in service and


voluntarily retired from service from 22.5.1987.

3. When the applicant retired from service, he was drawing a pay of Rs.4,000/- and a Special Pay of Rs.160/- per month. On that basis, the pension and other retiral benefits due to him was settled and being paid from time to time, with which he had no grievance.

4. But, as a bolt from the blue, the Financial Adviser and Chief Accounts Officer ('FA & CAO'), South Central Railway, the pension sanctioning authority, by his letter No.A/PN/1/1/616, dated 23.11.1987 (Annexure-A6) revised the pension earlier sanctioned and addressed the Bankers of the applicant to refund certain amounts as said to have been paid to him in excess. On this, the applicant made representations to the FA & CAO, who by his order dated 30.12.1987 (Annexure-A9) had stuck to his stand. Hence, this application.

5. In their reply the respondents have resisted this application.


6. Dr. M.S. Nagaraja, learned Counsel for the applicant, contends that the revision of pension and the consequent directions to the Bankers made by the FA & CAO without issuing a show cause notice and affording an opportunity of hearing thereto to his client was in contravention of the principles of natural justice and illegal. In support of his contention, Dr. Nagaraja strongly relies on the ruling of the Supreme Court in STATE OF ORISSA v. BINAPANI (AIR 1967 S.C. 1268) and Rule 2816 of the Indian Railway Establishment Code, Vol.II (Rules) which incorporates the very principle.



7. Shri M. Sreerangaiah, learned Counsel appearing for the respondents, sought to support the revision of pension and recovery of excesses as made by the FA & CAO.

8. When the applicant retired from service, his pension had been fixed at Rs.1,885/- p.m. taking into consideration his substantive pay of Rs.4,000/- and the Special Pay of Rs.160/- p.m. On this fixation, the applicant had no grievance. On the basis of this fixation, the Bankers of the applicant had been authorised to collect the amounts from Government from time to time. In his letter dated 23.11.1987 (Annexure-A6) the FA & CAO had revised the pension and fixed the same at a lower amount and has called upon the Bankers to refund the excesses.

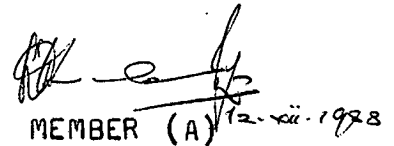
9. Before writing his letter or before rejecting the representations, made by the applicant, the FA & CAO did not issue a show cause notice to the applicant and did not afford him an opportunity of hearing, though the same results in civil consequences on him. What had been done by the FA & CAO was in contravention of the principles of natural justice and Rule 2816 of the Rules. We are of the view that Rule 2816 of the Rules does not enable revision of pension and recoveries without notice as urged by Shri Sreerangaiah. On this short ground, we must quash the orders of the FA & CAO without examining all other questions, however reserving him liberty to re-do the matter, if he so decides.



10. In the light of our above discussions, we quash the letter No.A/PN/1/1/616 dated 23.11.1987 (Annexure-A6) of the FA & CAO and all further consequential orders made by him on that basis and direct the respondents to continue to make payment of pension and other retiral benefits to the applicant at the rates earlier fixed by them. But this does not prevent the respondents from redoing the matter in accordance with law.

11. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.


VICE-CHAIRMAN 12/12/88


MEMBER (A) 12.12.1988

kms/Mrv.

