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CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No:

Transfer Application No: 591/92

DATE OF DECISION 21-1-93

Shri A. Anandan Petitioner

Mr. G. R. Menghani Advocate for the Petitioners

Versus

Union of India Through Respondent  
Divisional Railway Manager  
C.Rly. Bombay.

Mr. J.G. Sawant Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice S.K.Dhaon, Vice-Chairman

The Hon'ble Shri

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
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 ?

S.K.  
(S.K.Dhaon)  
Vice-Chairman

NS/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
BOMBAY

O.A. No.591/92

Shri A.Anandan ... Applicant

vs

Union of India  
Through Divisional  
Railway Manager,  
Central Railway, Bombay ... Respondent

Coram: Hon'ble Mr. Justice S.K.Dhaon, Vice-Chairman.

Appearance:

Mr. G.R.Menghani, Adv.  
for the applicant.

Mr. J.G.Sawant, Adv.  
for the respondent.

Dated: 21-1-1993

Oral Judgement

(Per: Mr. Justice S.K.Dhaon, Vice-Chairman)

On 1-1-1992 the Divisional Railway Manager(Personnel) sent a communication to the Station Superintendent, Pune that the application pay had been wrongly refixed and, therefore, certain over payments had been made to him. The same should be recovered in suitable instalments from the applicant. This communication is being impuned in the present application.

The applicant retired from service in June 1992. The alleged over payments have been recovered from his salary. The only argument advanced in support of this application is that the payments on the basis of the revised pay were made w.e.f. 1-6-1986 and department woke up for the first time on 1-1-1992 and the impuned communication was issued.

In the reply filed on behalf of the respondent it is averred that the clerk concerned had miscalculated the revised pay of the applicant inspite of the Ready Reckoner. A copy of the Reckoner has been filed alongwith the reply. No rejoinder affidavit has been

filed. We, therefore, proceed on the assumption that the payment was made to the applicant under a mistaken assumption.

It appears to me that the applicant who was Grade 'B' Guard received the payment bonafide and under the genuine belief that amount was payable to him. He must have, therefore, planned his future on the basis of the actual pay packet received by him. It was, therefore, harsh to direct him to refund the amount. Having regard to the facts of the circumstances of this case, justice demands that the applicant should not be allowed to suffer. The applicant must have consumed the amount before the impuned communication was issued. Further, the applicant should not be penalised for the negligence of the respondent's clerk.

The amount I am told comes to about Rs.3,800. The respondent shall repay the said amount to the applicant within a period of 3 months from the date of receipt of certified copy of this order. However, it is made clear that the applicant will not be entitled for any pensionary benefit on account of the erroneous re-fixation of his pay. His pensionary benefits will be fixed on the last pay drawn by him, the amount which was legally payable to him, on the date he retired. There shall be no order as to costs.

*dcy*  
(S.K.Dhaon)  
Vice-Chairman.