

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-38.

Dated: 18 NOV 1993

APPLICATION NO(s) 490 of 1993.

APPLICANTS: N.P. Purandare v/s. RESPONDENTS General Manager, South Central Railway, Secunderabad & Others.

TO.

1. Sri. Anirudha Desai
Advocate, No. 477,
Sixth Main, Second Stage,
West of Chord Road,
Bangalore-560 086.
2. Financial Advisee and
Chief Accounts Officer,
South Central Railway,
Rail Nilayam, Secunderabad-500371.
3. Sri. A. N. Venugopala Gowda,
Advocate, No. 8/2, Upstairs,
R.V. Road, Opp: Bangalore Hospital,
Bangalore.

SUBJECT:- Forwarding of copies of the Orders passed by
the Central Administrative Tribunal, Bangalore.

-XXX-

Please find enclosed herewith a copy of the
ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal
in the above mentioned application(s) on 04-11-1993.

M. Aneel S
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

18/11/93

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of issued
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CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE.

APPLICATION NUMBER 490 OF 1993

DATED THIS THE 4TH DAY OF NOVEMBER, 1993

Mr. Justice P.K. Shyamsundar, .. Vice-Chairman.

Mr. N.P. Purandare,
S/o Mr. P.V. Purandare,
Aged 71 years, Divisional
Personnel Officer, S.C.Railway,
Hubli.

.. Applicant.

(By Advocate Sri Anirudha Desai)

v.

1. The General Manager,
S.C.Railway, Rail Nilayam,
Secunderabad-500 371.
2. Financial Advisor
and Chief Accounts Officer,
S.C.Railway, Rail Nilayam,
Secunderabad-500 371.
3. Manager,
Syndicate Bank,
Anantapur (A.P) 515 004.

.. Respondents.

(By Standing Counsel Sri A.N. Venugopal)

O R D E R

O R D E R

Heard. Admit. I propose to dispose off this application on its merits ~~after~~ ^{hearing} perusing the pleadings and having heard in full the submissions on both sides. This application is directed against the proceedings for recovery of excess payment of pension by the Railways i.e., the General Manager, South Central Railway and the Chief Accounts Officer, South Central Railway, respondents 1 and 2 directing recovery of certain amount admittedly paid in excess to the applicant who retired from service in 1980. It is common ground that pension sanctioned to the applicant being only Rs.1575/- he was actually in receipt of pension of Rs.1619/- per month which was certainly in excess by Rs.44/-.



2. Admittedly, the pension was routed and availed of by the applicant through the auspices of the Manager, Syndicate Bank, Anantapur who had to collect the pension on his behalf and pay the same to the applicant month after month. The excess payment made by the bank to the applicant having been noticed in April, 1992, the Railway authorities wrote to the Bank inviting the bank's attention to the over payments made to the applicant and asking the bank to reimburse the department the excess amounts so paid. The applicant having been apprised of this development, presumably by the bank, began making representation to the respondents right from 10-9-1992 carrying it on till February, 1993 at which stage he was endorsed by the respondent vide Annexure-A8 dated 23-3-1993 stating that was being recovered is only excess payments made due to error and therefore the department was in order to enforce recovery which was also in terms of the RBI instructions.

3. After he received this endorsement by the department declining to restore parity in the matter of over payment of pension he came to this Court and asks that the excess payment recovered so far should be reimbursed and his pension fixed at Rs.1619/- as against the pension fixed at Rs.1575/- earlier.

4. Shri Anirudha Desai, appearing for the applicant does not canvass the case for refixation or restoration of pension at the rate of Rs.1619/- plus allowances etc. etc., but only confines his submission to the reimbursement of excess payment made to the applicant which has since been recovered. He suggests, in view of lapse of time the recovery of pension payment should have been limited only to the period of 3 years prior to the commencement of such recovery as otherwise under the laws of limitation, the claim of recovery for over payment would be clearly barred. He also pointed out the reimbursement



made by the bank is without reference to him because there was tripartite consultation before the recovery was effected. It is urged that, until he took up the matter of excess payment of pension with the Railways, he was not in the fray at all. The Railways were concentrating on the bank insisting upon reimbursement by the Bank. Ordinarily, I might have acceded to this submission of recovery having been done without notice to the pensioner in question, but then the bank having recovered and reimbursed the excess payment of pension with the consent of the applicant notified through a letter addressed to the bank, as per copy produced at Annexure-R4 by the respondents clinches this position.

5. Annexure-R4, is a letter said to be the reply to the communication at Annexure-R3 dated 8-10-1992 in which the Bank had asked the applicant to give a conditional consent stating that in case the authorities did not accede to his prayer for restoring and allowing the drawal of pension of Rs.1619/- as had been done over the years, he will repay the excess payment made. But, in reply the applicant stated as at Annexure-R4 dated 21-10-1992. Annexure-R4 reads -

Bangalore
21-10-1992

The Manager,
Syndicate Bank, Anantapur.

Dear Sir,

Sub: Remittance of my Pension through M.T.
Ref: Your letter No.Rly./1/3120 of 8-10-1992.

I am in receipt of your letter referred to above.
I agree to recover overpaid amount of pension as hereunder:

Rs.2413-00	Monthly pension for Septr.,1992.
Rs.0567-00	D.R. arrears for 3 months, July August and September,1992.
Rs.1200-00	Balance from monthly pension for October,1992
Rs.4140-00	Total.



Thus monthly pension for October,1992 due to me will be Rs.2602-00 less Rs.1200-00 = Rs.1402-00 which may be remitted by M.T. to Bangalore.

Thanking you,

Yours faithfully,

Sd/- N.P.Purandare."

A plain reading of the above reply clearly conveys that he was signifying his concurrence to the Bank's proposal of recovering the excess payment of pension as quantified therefor ending with a request that the balance due to him after the recovery of over payment could be handed over to him. Sri Desai suggests that the letter at Annexure-R4 was written under duress and was thus a person who was threatened by the bank to cut him off without a penny and therefore, no store should be set on the letter at Annexure-R4. I am told the applicant was a Group-B officer working as a Divisional Personnel Officer before he retired. I am quite sure he would be conversant with the implications of the letter he had written to the bank expressing a blanket concurrence to reimburse the department towards all excess payments made.

6. Under the circumstances there is little of significance in this submission that the recovery is directed without reference to the affected pensioner or the amount claimed and recovered is legally barred. Apparently, the department has upon a review of the pension paid by the bank having said the department had been billed in excess towards the pension due to the applicant and only when it became wise in the matter of checking siphoning off of its funds unauthorisedly, it thus notified the bank the mistake it was committing in the payment of pension and asking it to do the needful. The bank, treating this very letter as an authority for recovery of excess payment had obtained the letter at Annexure-R4 and reimbursed the department in toto and therefore the applicant cannot make any gri-

evance on the score of tandem objection of limitation and want of notice. I see no ground in this contention. It is trite that no person can enrich himself unjustly and obviously this is one such case wherein the applicant was paid Rs.1619/- towards pension by mistake instead of Rs.1575/- because of somebody's fault he cannot take that as a defence to deny the recovery of the over payments made to him by the Bank, that too after he himself had consented for the recovery. In view of the foregoing the applicant cannot make any grievance of the recovery made. If the applicant still feels there is a cause of action, he can take recourse to it before a civil Court by suing the Bank. For the reasons mentioned above, the application fails and is dismissed. No costs.

Sd —

VICE-CHAIRMAN.



TRUE COPY

M. Deo S
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

18/11/83