

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 952/93

Transfer Application No.

Date of Decision 13-10-85

A.N.Jagtap

Petitioner/s

Shri D.V.Gangal

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri S.C.Dhawan.

Advocate for
the Respondents

CORAM :

Hon'ble Shri. M.R.Kolhatkar, Member(A).

Hon'ble Shri.

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?

M.R.Kolhatkar
(M.R.KOLHATKAR)
MEMBER(A).

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BOMBAY BENCH, BOMBAY.

Original Application No.952/93.

A.N.Jagtap.

... Applicant.

V/s.

Union of India & Ors.

... Respondents.

Coram: Hon'ble Shri M.R.Kolhatkar, Member(A).

Appearances:-

Applicant by Shri D.V.Gangal.

Respondents by Shri S.C.Dhawan.

JUDGMENT :-

(Per Shri M.R.Kolhatkar, Member(A)) Dt. 13-10-95

The applicant is an employee of the Central Railway and retired from service on 31.3.1993. In this O.A., he challenges withholding an amount of Rs.20,522/- from his gratuity and also prays for refund of Rs.2,500/- illegally recovered from him and to grant 18% interest on the above amount.

2. The respondents have contended that the recoveries of Rs.20,522/- were made on account of the following :

Recoveries on account of:

(a) The applicant was paid excess payment during the period 1990-92. He was on sick no pay and or without pay leave. However, he was paid full wages during the said period. As per the enclosed statement of over drawn wages amounting to Rs.19,428/- were to be recovered from him. However, out of the said amount of Rs.19,428/- an amount of Rs.1,500/- was recovered from his regular wages from November 92 to January, 93 as requested by the applicant for the said recovery and the balance amount of Rs.17,928/- was recovered from his DCRG.

Amount

Rs.17,928/-

(b) The applicant was absent from 8.5.74 to 19.5.1974 during May 74 Railway Strike. The said period was not debited to his leave account. Since he has no leave at his credit at the time of his retirement, the said 12 days overdrawn wages amounting to Rs.1552/- was recovered from his DCRG.

Amount

Rs. 1,552/-

(c) He was in occupation of Railway quarter. He retired on 31.3.1993. However, he vacated the railway quarter on 5.5.1993. The rent was recovered upto January, 1993 from his regular pay sheets hence balance recovery towards house rent from 1.2.1993 to 4.5.1993 at Rs.39/- per month amounting to Rs.122.30 was recovered from his DCRG.

Amount
Rs. 122.00

(d) He was granted festival advance of Rs.600/- on account of Diwali festival 92. 3 instalments at Rs.60/- were recovered from his regular pay sheet and the remaining Rs.420/- recovered from his DCRG.

Amount
Rs. 420.00

(e) An amount of Rs.500/- has been recovered for future debit which will be paid to him on receipt of clearance certificate from stores department.

Amount
Rs. 500.00

Total: Rs.20,522.00

He was due for DCRG Rs.34,980.00
less total deduction Rs.20,522.00
as stated above. Rs.14,458.00

This amount of Rs.14,458/- has been paid to him on 21.6.1993. !!

The Respondents have further contended that:

"after arranging the payment of balance DCRG as stated above his leave account was reviewed when it was revealed that some leave was wrongly debited to his leave account; hence some of the deductions were wrongly included in the above said amount. A special pay sheet for the spell from 25.11.1990 to 17.12.1990, 6.1.1991 to 21.1.1991 and 12.2.1992 to 23.2.1992 amounting to Rs.5,236/- was therefore prepared, sent to Accounts office and passed vide CO 7 No.0245102289 dt. 18.2.94 for payment of Rs.5236/- to the applicant."

3. At the argument stage, the counsel for the applicant stated that he has nothing to say regarding payments referred to at (c) & (d) above. He, however, challenged the recoveries at (a), (b) and (e) and especially in regard to recoveries in connection with leave account he applied for inspection of the record.

1/2 After taking inspection, he filed a Rejoinder in which

he claimed that according to his calculations there is still a balance of 114 H.P.L. at his credit and he does not accept the contention that there was no E.L. to his credit on 15.11.1992 and in any case, he is entitled to encashment of six months' leave salary. The respondents have filed a sur-rejoinder and have stated that the applicant availed of excess 140 days of H.P.L. and there was no E.L. to his account as on 15.11.1992. It is stated by the Respondents that the calculations made by the applicant are based on wrong assumptions. The applicant was not injured on duty and was only on sick leave during that period. Moreover, the applicant has failed to notice that ^{for} every 11 days' of absence from duty without pay/sick leave without pay, one day's leave is to be debited to the account of the employee. The respondents have contended that the applicant was habitually absent from duty even when there was no leave to his credit.

4. On a perusal of pleadings, documents and considerations of the arguments, we are of the view that the prayers of the applicant are based on speculations. There is a presumption as to correctness of official records and leave record is one such type of record and the applicant has not been able to bring forward any material which would show that the leave record was not maintained correctly. Therefore, so far as the deduction made by the respondents at (a) and (b) is concerned, the applicant is not entitled to any relief. So far as the deductions at (c) & (d) are concerned the applicant has no grievance. Therefore, the only grievance that remains is the

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deduction at (e) viz. the amount of Rs.500/- which has been recovered in the context of future debit. According to us, this is a contingent debit and unless the respondents have any reason to withhold the amount on account of any corresponding liabilities of the applicant towards the Railways, there is no reason why they should deduct this amount from the D.C.R.G. We are, therefore, of the view that there is no merit in the OA, the same is dismissed with a direction, however, to the respondents to refund the balance amount of Rs.500/- withheld from the D.C.R.G. within a month of receipt of this order. There would be no orders as to costs.

M.R.Kolhatkar
(M.R.KOLHATKAR)
MEMBER (A)

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