

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: **O.A.No.147/94**

Transfer Application No:

DATE OF DECISION: 18.8.94

V.P.Kolhe Petitioner

Mr.G.S.Walia Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Mr.Subodh Joshi Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri

1. To be referred to the Reporter or not-? ^{no}
2. Whether it needs to be circulated to other Benches of the Tribunal? ^{no}

Recd
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9/8


Vice Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY 1

O.A. NO. 147/94

V.P. Kolhe

..Applicant

V/s

Union of India & Ors.

..Respondents

Coram: Hon. Shri Justice M.S.Deshpande, V.C.

Appearance:

Mr. G S Walia
Counsel for the applicant

Mr. Subodh Joshi
Counsel for the respondents

ORAL JUDGMENT:
(Per: M.S.Deshpande, Vice Chairman)

DATED: 18.8.94

The applicant who was in the services of the Respondents as Head Booking Clerk retired on 31.1.1987 on superannuation. He filed O.A.No. 630/1993 on 16.6.93 before this Tribunal for getting benefits of IVth Pay Commission Recommendations, but those benefits were denied to him. Ultimately by the order passed in that case on 22.3.94 it was directed that the applicant should be fixed in the pay scale as per the IVth Pay Commission Report, if that has not already been done and the amount of DCRG should be paid as per that fixation, the leave salary entitlement as per the pay fixation shall be calculated on that basis and the total sum of arrears as computed as per the three clauses above, shall be paid to him keeping back the amount which in the opinion of the respondents is necessary to be kept to make good any recovery to be made from the applicant on the finalisation of the criminal case that is pending against him. Consequent modifications should also be made in

the provisional pension on that basis and that no payment should be made in respect of commutation till the finalisation of the criminal case and fixation of final pension.

2. The applicant was, however, paid the amount of Rs.55,044 towards DCRG and commutation of pension at the time when the applicant retired in 1987. On 27.12.93 by the impugned order at Exhibit A, the DRM asked the applicant to remit the amount of Rs. 55,044/- on account of DCRG/Commutation payment since CBI case against him has not been finalised and the payment of amounts had been made wrongly to him. It appears that the applicant was not asked to show cause against the action that was proposed to be taken.

3. In the reply dated 23.02.1994 filed by the Bank, Respondent no.4, it was stated by the Bank that the monthly pension of Rs.719/- was credited to the applicant's pension account till December 1993, but in terms of the Central Railway, Bhusawal, letter dated 27.12.93 the monthly pension was reduced from Rs.719/- to Rs.480/- with effect from 1.2.1987 and the DCRG amount of Rs.24,919/- and commutation of Rs.30,125/- which was already paid to the applicant was to be remitted to the Railway Authorities in terms of Central Railway letter dated 27.12.93 in view of C.B.I. case pending against him.

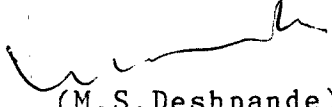
4. The defence of the respondent no.4 is that they only acted on the instructions by the Central Railway Authorities at Bhusawal, and that they are willing to abide by the order that the Tribunal might make in respect of letter dated 27.12.1993.

5. The other respondents raised several objections regarding the ineligibility of the applicant to receive the dues on account of the pendency of the Criminal proceedings. The question,

however, is not whether the respondents are entitled to make recovery of the amount alleged to have been wrongly paid to the applicant but about the prohibition to recover the amount from pension. The applicant has sought only final relief that any recovery which is sought to be made from the applicant should not be made payable from the amount of provisional pension which has been ordered to be paid to the applicant. The applicant's submission in this respect is supported by the observations in BENI PRASAD V. UNION OF INDIA, A.T.R. 1987(2) C.A.T. 205 and DOMINIC JAMES V. STATION COMMANDER (MILITARY), SUB-AREA, BOMBAY & ORS. (1992) 21 Administrative Tribunal Cases 735, It is obvious that no recovery could be made from the amount of pension. The only direction that needs to be made in the present case is that whatever recoveries have to be made from the applicant shall not be made by the respondents from the provisional amount of pension and dearness relief. The question whether if any amount has to be recovered from the applicant and what is the amount that would be recoverable is not decided in the present application.

6. Some relevant orders were made in OA No. 630/93 decided on 22.3.94 and the order that is being now made is without any prejudice to the directions made in that case.

7. In the result, the respondents are restrained from making any recovery from the amount payable to the applicant from the provisional pension including the dearness relief which is to be paid to him. If any amount has been withheld by the Respondent No.4 upon the instructions of Respondents Nos. 1 to 3 that amount shall be paid to the applicant within two months from the date of communication of this order to the respondents together with the current pension and other dearness relief which are payable to the applicant. No order as to costs.


(M.S. Deshpande)
Vice Chairman