

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH,
JAIPUR.

A 2/1

Date of Decision: June 24, 1993.

OA 740/88

OM PRAKASH CHADDHA

... APPLICANT.

Vs.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

HON. MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.
HON. MR. O.P. SHARMA, ADMINISTRATIVE MEMBER.

For the Applicant

... SHRI SURENDRA SINGH.

For the Respondents

... NONE.

PER HON. MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

Shri Surendra Singh, brief holder on behalf of
Shri M.S. Gupta, Advocate, is present for the applicant.
None present on behalf of the respondents.

2. The applicant retired on 29.2.88. The grievance
of the applicant is that he has not been paid his full
pensionary benefits so far. In the OA, it has been
mentioned that a criminal case No.24/78 was instituted
against the applicant and the same was pending on the date
of filing the application in 1988. The respondents have
filed their reply on 21.4.92 but it has nowhere been
mentioned therein what is the outcome of the criminal case,
which was instituted as far back as 1978. We are sorry to
note that the learned counsel for the applicant is not
aware of the facts of the case and is also not aware whether
the criminal case has been decided so far or not. None
is present on behalf of the Railway, which is equally
regrettable. Shri B.L. Meena, Chief Law Assistant, is


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present on behalf of the Railway but he does not know the facts of the case. Also since the Railway Authorities have not issued any notification appointing him as Officer Incharge in all cases or in this case, his presence cannot be recorded.

3. In such circumstances, we have examined the records ourselves, to decide the matter. There is an allegation against the applicant that there was an overpayment of Rs.34,000/- by the applicant. The respondents have used the word 'embezzlement' at some places and 'overpayment' at other places. As regard the alleged overpayment by the applicant, the amount can be recovered by the Railway. If it is not recoverable from the persons to whom the amount has been paid, the respondents can retain an amount of Rs.34,000/- out of the amount of pensionary amounts, which are payable to the applicant and can release the remaining amounts. Till the conclusion of the criminal case, provisional pension as per rules can also be paid. In case the applicant is convicted, the Department will have a right to take any action according to law to withhold or withdraw the pensionary benefits. In case the applicant is acquitted, the Department have to prove the overpayment. The applicant will have also a right to claim refund of the amount withheld provisionally and ask for the final determination of his pensionary benefits. After withholding an amount of Rs.34,000/- the balance amount out of the applicant's pensionary benefits should be released within a period of three months from the date of service of this order on the respondents.

4. The OA stands disposed of accordingly, with no order as to costs.


(O.P. SHARMA)
MEMBER (A)


(D.L. MEHTA)
VICE CHAIRMAN