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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No. 860/91.

Dt. of Decision : 3-10-94.

T. Subbaramaiah

.. Applicant.

Vs

1. General Manager, SC Rly,
Secunderabad.

2. Divisional Manager,
SC Rly, Vijayawada.

.. Respondents.

Counsel for the Applicant : Mr. C. Srinivasa Babu

Counsel for the Respondents : Mr. N.V. Ramana, Addl. CGSC.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

THE HON'BLE SHRI M. RANGARAJAN : MEMBER (ADMN.)

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25/10/94
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O.A. No. 860/91.

Dt. of Decision : 3-10-94.

ORDER

¶ As per Hon'ble Shri A.V. Haridasan, Member (Judl.) ¶

The prayer in this application, filed by an Ex-Service employee who retired on superannuation on 30-6-80 is for a declaration that the proceedings dt. 22.5.90 (A-17) is contrary to ^{law} illegal and violative of principles of natural justice and unsustainable and to issue appropriate directions. Shorn of details which are not material to the case of the applicant, necessary facts required for the purpose of disposal of this application, can be stated as follows:

2. While the applicant was working as Catering Manager, VRR, Vijayawada, he was proceeded against, for negligence of duty and causing certain loss to the Railway Administration. An enquiry was held in which the applicant was held guilty and as a punishment, a sum of Rs. 15,824.69/- was ordered to be recovered from the salary of the applicant at the rate of Rs. 260/- pm. In addition, a sum of Rs. 6,000/- was later found to be recovered ^{able} from the applicant. These recoveries were made from the salary and DCRG due to the applicant. As stated at the out set the applicant retired on superannuation on 30-6-80. A decade thereafter the respondents have issued the impugned order on 22.5.90 stating that, as pointed out by the audit party, the loss caused by due to the negligence of the applicant for which he was charge sheeted and punished amounted to Rs. 65,148.98/- and that, as the applicant had already retired from service the unrealised portion of the ^{namely} loss ^{of} Rs. 51,528.23/- was being recovered from the relief on his pension. The applicant ^{on} receipt of this order, sought explanation from the respondents as to how this amount has been

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worked out so many years after his retirement. The Railway Administration did not favour him with the answer to this pertinent question. It is under these circumstances that the applicant has filed this application seeking to quash the impugned order dt. 22.5.90. The respondents do not controvert the factual allegations that in the final order passed in the disciplinary proceedings the amount to be realised from the pay and allowances was fixed at Rs.15,824.69/- and that further sum of Rs.6,000/- was also found recoverable from the applicant. The respondents seeks to justify the impugned action on the ground that while they were closing the audit, objection against the applicant some more debits of excess consumption and shortage of equipments during the stock verification amounting to Rs. 51,528.23/- had come to light in a tripartite meeting held on 24.7.86 with the officers from Audit Accounts and Commercial Department of the Railways. It was resolved to recover this amount from the relief on pension of the applicant. In the rejoinder filed by the applicant he has contended that the impugned action is in violation of the principle of natural justice as no fresh charge sheet was issued to him and the assessment of the amount was made by the respondents themselves without associating the applicant with the above process.

2. We have heard learned counsel for both the parties and ^{we} have also perused the material papers on record. The fact that the applicant retired in the year 1980 and that before impugned order(A-17) was issued, no notice was issued to the applicant stating that in addition.

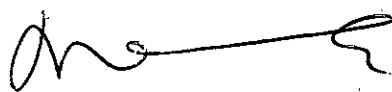
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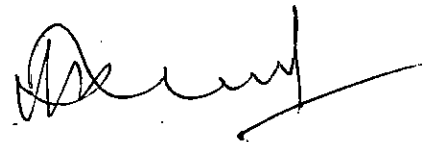
to what was recovered from his pay and gratuity there were further amounts to be recovered from the applicant. It is also a point beyond dispute that in coming to the conclusion that a sum of Rs. 51,528.23/- is recoverable from the applicant was done without associating the applicant with the above process. Everything has been done unilaterally by the Railway Administration. The decision taken at the meeting of its own officers without giving an opportunity ~~to him~~ cannot bind the applicant because it was taken behind the applicant. There is no provision in the Railway Servants pension rules which enables the Railway Administration to recover any amount unilaterally assessed as loss, after the Railway Servant has left office on superannuation. Rule.9 of the Pension Rules of course places President to withhold the pension as a whole or in part for a particular period if the railway servant is found guilty of mis-conduct or if it is found that any amount is to be recovered from the applicant at proceedings held against him. After the retirement of the applicant no departmental proceedings has been held against him at all. The amount to be recovered from the pay and allowances and DCRG of the applicant was determined prior to his retirement and the amount has been already recovered also from his pay and DCRG. Therefore the impugned action of the respondents to recover as huge a sum of Rs.51,528.23/- from a retired railway employee who on the day and depend on his life only on the pension is unjustified, illegal and irrational. It is also not provided in any statutory rules. The impugned order therefore has no leg to stand and naturally collapses.

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3. We are told by the counsel for the applicant that a substantial sum has already been recovered from the relief on pension of the applicant, before the stay was granted. Therefore it is necessary to give a direction to the respondents to refund the amount if any recovered from him. In the result the impugned order dt. 22.5.90 (Annexure -17) is declared as illegal and the same is hereby quashed. The respondents are directed to refund to the applicant the amount if any which has been recovered from the relief of his pension ^{persuant} ~~to~~ ^{impugned} to the above said ~~orders~~ ^{order} within a period of 2 months from the date of communication of this order. There is no order as to costs.



(R. RANGARAJAN)
MEMBER (ADMN.)



(A.V. HARIDASAN)
MEMBER (JUDL.)

Dated : 3rd October 1994.
Dictated in Open Court.

spr.


Dy. Registrar (Judl.)

Copy to:-

1. General Manager, S.C. Railway, Secunderabad.
2. Divisional Manager, South Central Railway, Vijayawada.
3. One copy to Sri. C. Srinivasa Babu, advocate, CAT, Hyd.
4. One copy to Sri. N.V. Ramana, Addl. CGSC, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

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Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. A. V. HARIDASAN : MEMBER (J)

AND

R. Ranga Rajan
THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

Dated: 3/10/94

ORDER/JUDGMENT.

~~M.A./R.P/C.P/No.~~

O.A. NO.

in

86791

T.A. NO.

(W.P. NO.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with Directions.

Dismissed.

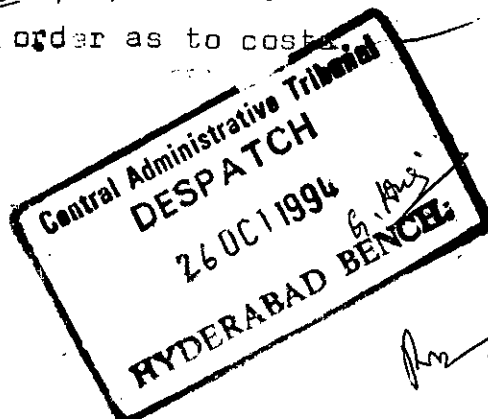
Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

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18/10/94