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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH ::  
AT HYDERABAD.

O.A.No. 870/91.

Date: 16-6-1993.

Between:

K. Venkataramaiah .. .. Applicant.

And

1. The Addl. General Manager,  
South Central Railway,  
Secunderabad.
2. The Divisional Railway Manager,  
(Commercial Br.) HYB/MG, Division,  
South Central Railway,  
Secunderabad. .. Respondents

Appearance:

Counsel for the Applicant : Sri K.Lakshmi Narasimha,  
Advocate

Counsel for the Respondents : Sri V.Bhimanna, SC for Rly.

CORAM:

Hon'ble Mr. Justice V.Neeladri Rao, Vice-Chairman

Hon'ble Mr. P.T.Thiruvengadam, Member (Admn.)

(Order of the Division Bench as per Hon'ble Sri P.T.  
Thiruvengadam, Member(A) )

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The applicant retired from service with effect from 11-8-1987 by way of voluntary retirement. At the time of settling his retirement dues an amount of Rs.3,899/- was deducted from his accumulated provident fund dues. He was paid all the other remaining terminal benefits.

...2/-

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2. The deduction of Rs.3,899/- from the G.P.F. dues is challenged by the applicant in this O.A. on various grounds. One of the grounds is that no deduction can be made from GPF dues.

3. In the counter it has been brought out that a loss of Rs.3,899/- was caused to the Railway due to the failure of the applicant in not collecting the necessary charges from the Consignee with regard to the consignment of Charcoal booked in a broadgauge wagon from Gorpas to Kurnool town on 25-6-1984. The administration had recovered the alleged amount of loss due to short collection of freight charges in terms of the powers conferred by provisions contained in para-323 of Manual of Railway Pension Rules, 1950. Para-323 of the said Manual reads as under:

"para-323:

- (i) A claim against the Railway servant may be on account of one or the other of the following:-
  - (a) losses (including short collection in freight charges, shortage in stores) caused to the Government as a result of negligence or fraud on the part of the Railway Servant while he was in service;
  - (b) other Government dues such as overpayment on account of pay and allowances, or admitted and obvious dues such as house rent, post-office, Life Insurance premia, outstanding advance, etc.;
  - (c) non-Government dues.
- (ii) Recovery from recurring pensions as also commuted value thereof, which are governed by the Pensions Act, 1871, can be made only in terms of para-315; accordingly a recovery of only item (a) may be made from these provided the conditions laid down in para 315 are fulfilled. A recovery on account of

12-11-1971 which is not made in form of para-315, 316 or 317. It is a recovery on account of items (b) and (c), as not made in these even with the consent of the Government. The amount due on account of item (a) which cannot be recovered from the Government or on account of item (b), can, however, be recovered from ordinary/terminal/benefit/retirement gratuity which are not subject to the provisions Act, 1971. It is permissible to make recovery of Government dues from the ordinary/terminal/benefit/retirement gratuity but even without obtaining his consent, or without obtaining the consent of the members of his family in the case of a deceased, railway servant.

(11.) Direction to pensionary benefits should not be delayed pending recovery of any outstanding Government dues. If at the time of sanction any dues remain unassessed and unrealized, the following course should be adopted:-

From the above, it is clear that this para relates to recovery of Government dues from pensionary dues other than the P.T. accumulation of the employees. Accordingly, the recovery of Rs. 3,849/- due from the P.T. dues of the employee is evident from Annexure-6 of the P.T. dues. In P.T. is not in order. Hence, the recovery amount of Rs. 3,849/- should be paid back to the applicant along with interest 12% p.a. for the period from 1-4-1978 to the date of final payment. The said payment should be made within two months from the date of receipt of this order.

4. But this order does not mean the termination of the recovery of P.T. dues as per rules to effect the recovery of Rs. 3,849/- or any amount, if the applicant is liable for the said amount. It is needless to say that the applicant has to be served with the notice before any action is intended to be taken as to enable him to explain his claim.

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item-(a) which cannot be made in terms of para-315, and any recovery on account of items (b) and (c), cannot be made from these even with the consent of the Railway servant. The amount due on account of item (a) which cannot be recovered from these and or on account of item (b), can, however, be recovered from ordinary/terminal/death/death-cum-retirement gratuity which are not subject to the Pensions Act, 1871. It is permissible to make recovery of Government dues from the ordinary/terminal/death-cum-retirement gratuity due even without obtaining his consent, or without obtaining the consent of the members of his family in the case of a deceased Railway servant.

(iii) Sanction to pensionary benefits should not be delayed pending recovery of any outstanding Government dues. If at the time of sanction any dues remain unassessed and unrealized, the following courses should be adopted:- ... "

From the above, it is clear that this para relates to recovery of Government dues from pensionary dues other than the P.F. accumulation of the employees. Accordingly, the recovery of Rs.3,899/- made from the P.F. dues of the employee as evident from Annexure-6 of the material papers in O.A. is not in order. Hence, the recovered amount of Rs.3,899/- should be paid back to the applicant along with interest @ 12% p.a. for the period from 1-4-1988 to till the date of final payment. The said payment has to be made within two months from the date of receipt of this order.

4. But, this order does not debar the administration to take such steps as per rules to effect the recovery of Rs.3,899/- or any amount, if the applicant is liable for the said amount. It is needless to say that the applicant has to be served with due notice before any action is intended to be taken so as to enable him to explain his claim. *Hand*

...4/-

300/19/-

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5. In the above view, there is no need to advert to other grounds raised in the application for disposal of this O.A. The O.A. is ordered accordingly. No costs.

( Dictated in the open court )

P. J. Thi

( P.T. Thiruvengadam )  
Member (A)

V. Neeladri Rao  
(V. Neeladri Rao )  
Vice Chairman

Dated 16th June, 1993.

grh.

Deputy Registrar (J)

To

1. The Addl. General Manager,  
S.C. Railway, Secunderabad.
2. The Divisional Railway Manager,  
(Commercial Branch) HYB/MG, Division,  
S.C. Fly. Secunderabad.
3. One copy to Mr. K. Lakshmi Narasimha, Advocate, 16-11-20/13  
Saleem Nagar, Hyderabad.
4. One copy to Mr. Bhimanna. V. SC for Rlys. CAT. Hyd.
5. One copy to Library, CAT. Hyd
6. One spare copy.

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