

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 396 of 1992

Date of order: 13-10-1992.

Between

A.V.N.Raju

... APPLICANT

A N D

1. Senior Divisional Accounts Officer,
South Central Railway, Vijayawada.
2. Financial Adviser & Chief
Accounts Officer, S.C.Rly.,
Secunderabad.
3. Union of India rep. by the
Secretary, Railway Board,
New Delhi.

... RESPONDENTS

Appearance:

For the applicant

: Shri G.V.Subba Rao, Advocate

For the respondents

: Shri N.V.Ramana, SC for Railways

CORAM:

The Hon'ble Shri R.Balasubramanian, Member (Admn.)

The Hon'ble Shri C.J.Roy, Member (Judicial)

J U D G M E N T

(of the Bench delivered by the Hon'ble Shri R.Balasubramanian,
Member (A)).

This application is filed by Sri A.V.N.Raju seeking quashing of the impugned orders dated 4-2-1992 and 9-4-1992 of the 1st Respondent and to direct the Respondents to continue to pay the applicant his pension and other benefits as fixed earlier without any reduction or deduction.

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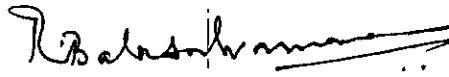
2. The applicant who joined the Railways as a Grade-II clerk in September 1957 had retired from service as Accounts Assistant on 30-11-1989 in the scale of Rs.1400-2600. While in service, in terms of Railway Board's letter dated 2-8-89 the applicant was given the benefit of Special Pay of Rs.35/- to be reckoned for all purposes as pay. His pension was fixed on the basis of the last pay drawn at the time of retirement and he continued to draw the pension as per the Pension Payment Order. While so, the Senior Divisional Accounts Officer vide his letter dated 4-2-1992 advised the applicant to refund Rs.12,474/- without quoting any authority. It is stated in the letter that it is the sequel to re-fixing his pay minus the special pay component. The Respondents also wanted to re-fix his pension ignoring the special pay which should have formed part of pay. The representations made by the applicants when bore no fruit, and finally/his request was rejected the applicant has approached the Tribunal with this O.A.

3. The Respondents have filed a counter affidavit and opposed the application. They relied on the Railway Board's letter No.PC-III/79/SP/I/UDC dated 29-5-1990 according to which they have corrected the earlier Pension Payment Order and ordered the recovery and reduction of the pension also.

4. We have heard the rival sides and examined the case. At the time of hearing, the learned counsel for the applicant submitted a copy of the judgment dated 6-9-1991 of the Madras Bench of the Tribunal in their O.As. 717/90, 874/90 and 767/90. In this judgment they have quashed the Railway Board's Memo. dated 29-5-1990 as illegal

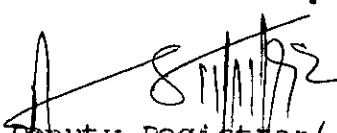
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and ordered treatment of the Special Pay as part of the pay. Agreeing with this decision of the Madras Bench, this Bench has very recently, on 14-9-92 in O.A. 620/91, afforded similar relief. Based on these two judgments and in as much as the Railway Board's decision dated 29-5-1990 based on which the Respondents have taken action now, has been quashed, we allow the application and order the Respondents not to recover the amount of Rs.12,474/- from the applicant. They are also directed not to reduce the pension of the applicant on this basis and they are directed to continue to pay the pension as fixed by them in the Pension Payment Order which took into account the special pay enjoyed by the applicant. There is no order as to costs.


(R. Balasubramanian)
Member (A)


(C.J. Roy)
Member (J)

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Dated: 13th day of October, 1992.


Deputy Registrar (J)

mhb/

To

1. The Senior Divisional Accounts Officer,
S.C. Railway, Vijayawada.
2. The Financial Adviser & Chief
Accounts Officer S.C. Rly. Secunderabad.
3. The Secretary, Railway Board, Union of India, New Delhi.
4. One copy to Mr. G.V. Subba Rao, Advocate, CAT. Hyd.
5. One copy to Mr. N.V. Ramana, SC for Rlys, CAT. Hyd.
6. One spare copy.

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