

(12)

R.A.NO.24/95 in
OA 1386/93.

ORDERS

Dt: 10.3.95

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri D.Gopal Rao, learned ~~XXXXXX~~ standing counsel for the review applicants and Shri J.Venugopala Rao, learned counsel for the respondent.

2. OA 1386/93 was filed praying for direction to R-1 and R-2 to retain the applicant in any sedentary post in the same category of Driver Passenger such as Loco Inspector or permit the applicant to retire in the category of Driver Passenger protecting his pay at Rs.1950/- per month for the purpose of retirement and other benefits as applicable to him. The said CA was disposed of on 9.8.1994 and the operative portion therein is as under:-

"If the applicant is allowed to retire, he should be paid pension and other final settlement benefits on the basis of the presumptive pay at the appropriate stage in the grade of Rs.1350-2200 (RSRP) treating him as Goods Driver. The excess payment made to him as Driver Passenger should not be recovered from his final settlement dues."

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contd....

P-2

To

1. The Divisional Railway Manager, S.C.Rly (BG)
Secunderabad.
- Broad Gauge/S.C.Rly, Secunderabad.
3. The Loco Foreman, S.C.Rly Kazipet, Warangal Dist.
SC. for Rlys
4. One copy to Mr.D.Gopal Rao, ~~Kazipet~~, CAT.Hyd
5. One copy to Mr.J.Venugopal Rao, Advocate, Flat No 4 & 5
Triveni Apartments, 8-3-969/1, Hyderabad.
6. One copy to Library, CAT.Hyd.
7. One spare copy

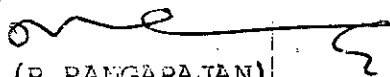
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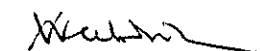
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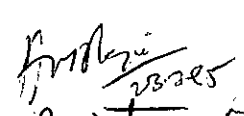
3. The contention for the respondents in the ^{C.A.} ~~R.A.~~ ^{who filed the R.A.} is that when there is no prayer in regard to the excess payment made to the applicant as Driver Passenger, it is not open to this Tribunal to order that excess payment should not be recovered from the final settlement dues payable to the applicant. It is submitted that there was not even a notice to the applicant to recover the excess payment and in case the respondents in the OA are going to issue such a notice, it is open to the applicant in the OA to challenge it and then it is a matter for consideration. But necessary reasons were given in para 8 of the order dated 9.8.1994 in the OA for holding that the excess payment made to the applicant as Passenger Driver should not be recovered from his final settlement dues. The respondents cannot be aggrieved when they had not yet issued notice in regard to the same. But when we have given reasons as to why the excess payment should not be recovered from the final settlement dues of ~~the applicant~~ for the respondents to issue a notice for recovery.

4. Hence, there are no grounds for review and accordingly the RA is dismissed. No costs./


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 10th March, 1995.
Open court dictation.


Deputy Registrar (Sd)