

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

QA 349/93

Date of Decision: 6.9.94.

JOHRI LAL

... APPLICANT.

Vs.

UNION OF INDIA & CRS.

... RESPONDENTS.

CORAM:

HON'BLE MR. GOPAL KRISHNA, MEMBER (J).

For the Applicant

... SHRI K.KAMAL SINGH.

For the Respondents

... SHRI MANISH BHANDARI.

PER HON'BLE MR. GOPAL KRISHNA, MEMBER (J).

Applicant Johri Lal, in this application u/s 19 of the Administrative Tribunals Act, 1985, has prayed for quashing the impugned orders Annexure A-1 and Annexure A-2, passed on 19.3.93 and 7.12.92 respectively, as also for a direction to restrain the respondents from implementing the same. It has also been prayed that the respondents be directed not to deduct any amount from the pension of the applicant and not to reduce the same.

2. I have heard the learned counsel for the parties and have gone through the records of the case carefully.

3. The applicant's case is that he was initially appointed in the service of the respondent No.1 on 1.2.1949 and continued in service till his superannuation on 31.1.1986. The applicant had retired from the post of Assistant Guard/Brakesman grade Rs.260-6-326-EB-8-350 while working at the Railway Station, Bandikui. On the recommendations of the 4th Pay Commission, the pay scale of Assistant Guard/Brakesman was also revised from Rs.260-350 to Rs.950-20-1150-EB-25-1400. The applicant opted for the new pay scale and he requested the respondent No.1 to allow him the benefits of the new pay scale and settle his pension, gratuity and other retiral benefits in accordance with the revised pay scale. The respondents thereafter calculated his pension and other retiral benefits taking into consideration the new pay scale and the pension etc. of the applicant was revised vide Annexure A-3. However, when the applicant went to collect his pension from the United Commercial Bank, Bandikui, on 1.6.93 he was astonished to know that the respondent No.2 has issued an order Annexure A-1 asking the Bank to deduct a sum of Rs.48093/- in 99 instalments from the applicant's pension and there was another order Annexure A-2 dated 7.12.92 annexed to the same. It is urged on behalf of the applicant that the impugned orders at Annexure A-1 and A-2 were passed without giving any prior notice to the applicant either before or after passing the same and thus there has been violation of the principles of natural justice.

C.K. Mishra

It is urged that these orders having been passed without affording an opportunity of hearing to the applicant deserve to be quashed.

4. On the contrary, the respondents have stated that for calculating the pension and other pensionary benefits the Railway Board had issued a letter No.FC/4/87/13/891/5 dated 6.10.67 and that a wrong interpretation was made of the said letter and as per the said letter 55% mileage was to be given to the applicant on the pre-revised salary and in this regard the calculation was to be made on the basic salary only. But due to mistake the same was calculated on the basic salary + dearness allowance and other allowances. It is contended that the applicant's pension was calculated wrongly and the amount which was paid in excess has to be recovered. The applicant was asked to deposit the excess amount and in this regard a letter was also sent to the applicant. The applicant has categorically denied in the rejoinder the receipt of any letter dated 24.2.93.

5. There is no reference in the impugned orders Annexure A-1 dated 19.3.93 and Annexure A-2 dated 7.12.92 that any show-cause notice was issued to the applicant before any excess payment of Rs.48093/- was ordered to be recovered from his pension and before his pension and pensionary benefits were ordered to be reduced. Even if errors were committed in calculating the pension and the pensionary benefits of the applicant, the same could have been rectified after hearing the applicant. In the circumstances of this case, the respondents were not justified to correct the error without giving an opportunity to the applicant to be heard.

6. In view of the position stated above, the application is allowed and the impugned orders at Annexure A-1 dated 19.3.93 and Annexure A-2 dated 7.12.92 are set aside. However, the respondents are free to pass fresh orders in regard to pension and the pensionary benefits payable to the applicant under rules after affording an opportunity of hearing to the applicant. No order as to costs.

G.Kishore
(GOPAL KRISHNA)
MEMBER (J)