

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT SITTING AT INDORE

Original Application No. 221 of 2004

Indore, this the 12th day of July, 2005

Hon'ble Shri Justice M.A. Khan, Vice Chairman
Hon'ble Shri S.K. Naik, Administrative Member

Smt. Ushabai, Wd/c Nanda,
Gangman under the Chief Permanent
Way Inspector, West Central Rly.,
Railway Qr. Rly. Colony,
Shamgarh (MP).

... Applicant

(By Advocate - Shri A.N. Bhatt)

V e r s u s

Union of India & Others
Represented by :

1. The General Manager,
West Central Railway,
HQ Office - Jabalpur (MP).
2. The Divisional Rail Manager,
West Central Railway,
Divisional Office/Kota
(Raj.).

... Respondents

(By Advocate - Shri Anand Pathak)

O R D E R (Oral)

By Justice M.A. Khan, Vice Chairman -

The applicant has filed this OA for a direction to the respondents to refund the amount of Rs.31,007/- recovered from the salary of the applicant.

2. The applicant's husband died in harness and the applicant was appointed on compassionate grounds as Gangman in 1992. She was getting family pension being widow and was also receiving the pay and allowances from the respondents. As per the extant rules, she was not entitled to receive DA and interim relief on the family pension as well these allowances admissible on his pay during the period from 1992 to 1997.

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It is stated that since 18.7.1997, as per rules, these allowances became admissible both on the family pension and on the pay of the applicant. As such, since 18.7.1997, she has been receiving both these allowances on the family pension as well as on the salary.

3. By order dated 27.3.1997, the respondents calculated the total excess payment made to the applicant as Rs.31,007/- (Annexure R-3) and recovery was made from the applicant's salary in instalments of Rs.500/- per month. The entire amount has since been recovered from her salary.

4. Learned counsel for the applicant has stated that there was no proof that the bank has credited the amount of DA and interim relief in the pension account of the applicant during the period 1992-1997. He has drawn our attention to a certificate issued by the Bank Manager dated 11.12.02 (Annexure A2 to the OA). The certificate simply states that the arrears of DA from 18.7.97 to May 2002 amounting to Rs.25,006/- have been paid in June 2002 along with the amount of pension. The certificate does not say that ^{the} DA and interim relief was not paid on the pension of the applicant between 1992 and 18.7.1997.

5. On the other hand, the respondents have filed a letter of the Bank Manager dated 22.1.97, which is filed along with the reply as Annexure R1. The statement showing the amount which was paid to the applicant as DA and interim relief from 21.8.1992 to 30th November 1996 is enclosed. The total amount of erroneous over payment is Rs.31,007/-. This is the amount recovered by the respondents from the salary of the applicant. The Senior Section Engineer of the respondents also in his letter dated 11.8.2004 (Annexure R2) has calculated

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the amount of excess payment as Rs.31,007/-.. Though the learned counsel for the respondents has stated that the bank has not paid the amount of DA and IR on the pension amount of the applicant, but the statement Annexure R1 which has been issued by the bank shows that a sum of Rs.31,007/- was paid as DA and IR in the pension account of the applicant. This was the excess payment made to the applicant in contravention of the rules. The respondent department has rectified its mistake and recovered the over payment made erroneously on account of departmental lapse.

6. Had the applicant come to this Tribunal challenging the order dated 27.3.1997 and the recovery of the money in instalments from the salary at the initial stage, the question could have been considered whether the over payment made by the department on account of DA and IR on account of administrative lapse, in which the applicant had no role to play, and the excess payment, was not the result of any mis-representation on the part of the applicant, could still be recovered from the applicant? But in the present case, the entire amount has already been recovered. Since the payment was in contravention of the rules and the recovery has been made on rectifying this mistake, we do not find that the respondents should be directed to refund the recovered amount of Rs.31,007/-. We, therefore, do not find any merit in the OA and accordingly the OA is dismissed. Parties to bear their respective costs.

Naik
(S.K.NAIK)
ADMINISTRATIVE MEMBER

Naik
(M.A.KHAN)
VICE CHAIRMAN

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प्रतांकन सं. अ/व्या..... जवाहरल. दि.....
परिवारी विविध विविध -
(1) सरिय. आ. वाराहन वाराहन वाराहन, जवाहरल.
(2) आकेश शंकर विविध विविध..... काउंसल
(3) प्रतांकन विविध विविध..... काउंसल
(4) कृष्णल. वाराहन. जवाहरल. वाराहन
सूचना एवं आकर्षक कार्यालयी द्वारा
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Dr. Bhati DevRathw
Dr. Anand P. Hark
Dr. V. Andra

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