

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH  
JABALPUR

O.A. No. 626/2003

Jabalpur, this the 12th day of November, 2003

HON'BLE SHRI SARWESHWAR JHA, MEMBER (A)  
HON'BLE SHRI BHARAT BHUSHAN, MEMBER (J)

Brahm Darshan Singh  
S/o Shri Jai Karan Singh  
Retired Chief Power Controller,  
Central Railway, Bhopal  
R/o E/8/113, Railway Housing Society,  
Arera Colony, Bhopal,  
Madhya Pradesh, M.P.

... Applicant

(By Advocate: Shri L.S. Rajput)

Versus

1. The General Manager,  
West Central Railway,  
Near Railway Station,  
Indira Market,  
Jabalpur (M.P) 482 001.

2. The Divisional Railway Manager,  
West Central Railway,  
Habibganj, Bhopal (MP).

3. The Senior Divisional Finance Manager,  
West Central Railway,  
DRM's Office, Habibganj,  
Bhopal, M.P.

... Respondents

(By Advocate: Shri H.B. Srivastava)

By Hon'ble Shri Sarweshwar Jha, Member (A):

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2. The learned counsel has preferred this original application against the order of the Respondents dated 7.8.2003, whereby they have dictated the Branch Manager of the State Bank of India, Extention Counter, DRM Office, Bhopal, Kasturba Hospital Branch, Bhopal to deduct



an amount of Rs. 1,00,569/- from the DA on the pension of the applicant against some debit not known to the applicant (Annexure A-1). The applicant have, accordingly, prayed that the impugned letter/order be held arbitrary and illegal. He has further prayed that respondents be directed not to order any recovery in the name of debit or in any other name.

3. The applicant, who was in service of the respondents and who retired from the Railway Service on superannuation on 30.9.1997, when he was holding the post of Chief Power Controller, Bhopal in the scale of Rs. 2375-3500 (RPS) which was subsequently revised to Rs. 7450-11,500/- (RSRP) w.e.f. 1.1.1996. The applicant, after having retired in the year 1997, has been faced with the recovery of Rs. 1,00, 569/- vide Annexure A-1 and finds the same as being without any reason. He has claimed that no debit has been pending against him. He seems to have contacted the Branch Manager of the State Bank of India and requested him not to make the recovery. He also approached the respondents No. 2 & 3 with a representation dated 1.9.2003 (Annexure A-4), but these respondents refused to accept the representation

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and rejected it orally on the same day, as submitted by the applicant. Hence, this O.A.

4. In the reply, the respondents have submitted that wrong fixation of pay was done in the case of the applicant when he was promoted from the post of Driver 'B' in the Grade of Rs. 425-640 (RS), a post of Running Cadre and drawing pay of Rs. 545/- was promoted as Power Controller as detailed in paragraph 1 of their reply. They have further submitted that the mistake which was committed in the fixation of pay on 20.7.1984 in the grade of Rs. 550-750 (RS) and the mistake of wrong fixation crept in higher grade of Rs. 2000-3200 and Rs. 2375-3500/-, 7450-11,500/- (RSRP) also. Thereafter, the applicant continued to draw more pay than what he was entitled to. They have also submitted that a show cause notice was served on the applicant on 28.8.2002, alongwith copy of judgment of the Central Administrative Tribunal, Principal Bench, New Delhi in OA No. 69/98 & Ors. decided by the Tribunal on 19.2.2002. The Respondents have argued that over-payment involved in the present O.A. pertains to the over-drawn amounts from 1984, and the total amounts due against the applicant have been worked out as per rules.

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5. The applicant, in his rejoinder, has submitted that he has not mis-represented the facts in the matter at any stage. He has cited the decisions of the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 965/2001 dated 7.3.2002 to support his contention that recovery cannot be made from him, as the wrong fixation of pay has not been done on account of any mis-representation made by him. It is also observed that in the said orders of the Tribunal there is a reference to the decisions of the Hon'ble Supreme Court in Sahib Ram Vs. State of Haryana and Others, (1995) SCC (L&S) 248 and 1995 (1) SLJ 151 (SC) which has been followed by the Tribunal in R.B. Saxena Vs. Union of India and Ors., 1996 (2) SLJ 142, Central Administrative Tribunal, Jabalpur Bench. The Tribunal further observed as follows:

"Therefore, we consider that it would be appropriate for the respondents to recover the balance of over-payments made to the applicant by fixing responsibility on the concerned erring Officer(s) who were responsible and make recoveries from the applicant who was not at fault. In the result, directed quashing of the order regarding recovery of over-payment".

6. We have considered the submissions made by the applicant as well as the respondents on

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the subject. While on the very face of it, it is observed that the action of the respondents to serve an order for recovery of an amount of Rs. 1,00, 569/- from the Dearness Allowance on the Pension of the applicant after six years of retirement appears to be quite irregular and inappropriate, it is also observed that they have not kept in view the settled law on the subject. It is common knowledge that if no mis-representation of facts has been done by the applicant and the over-payment has not been made for any fault of him, it would be for the respondents to proceed in the matter in the light of the settled position of law on the subject including what has been laid down by the Tribunal in the cases as have been referred to hereinabove.

7. Accordingly, we have examined the materials submitted on record. We have heard the learned counsel for the respondents as also the learned counsel of the applicant who has appeared on behalf of the applicant, and after considering the facts of the case, we are of the considered opinion that the matter deserve to be considered by the respondents in the light of the above observations and, particularly, the decisions of the Central Administrative Tribunal, Principal Bench in OA No. 965/2001 decided on

  
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7.3.2002 in which references have also been made to the orders of the Hon'ble Supreme Court on the subject. While giving the above directions, we also hereby set aside their letter dated 7.8.2003 placed at Annexure A-1.

8. With this, this OA stands disposed of with the above directions to the respondents. No costs.

  
**BHARAT BHUSHAN**  
**MEMBER (J)**

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(SADS INCLDED THIS)

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