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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 670 of 2003

Indore, this the 11th day of January, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

S.K. Pandey, son of late K.D. Pandey,
Aged about 60 years, retired L.I/CCC/BMY,
Adarsh Nagar, Charoda, Bhilai, Distt. Durg
(Chhattisgarh). Applicant

(By Advocate – Shri Raghuvendra Pradhan)

V e r s u s

1. Union of India, represented through General Manager, South Eastern Central Railway, Bilaspur Zone (Chhattisgarh).
2. The Divisional Railway Manager, South Eastern Central Railway, Bilaspur Division, Bilaspur (Chhattisgarh).
3. Senior Divisional Personnel Officer, South Eastern Central Railway, Bilaspur Division, Bilaspur (Chhattisgarh).
4. Senior Divisional Mechanical Engineer, South Eastern Central Railway, Bilaspur Division, Bilaspur (Chhattisgarh).... Respondents

(By Advocate – Shri M.N. Banerjee)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application the applicant has claimed the following main reliefs :

“8.1 the respondents may be allowed to make payment of remaining amount of DCRG of the applicant for Rs. 91,061/- without any delay,

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8.2 the respondents may be further directed to calculate the pension/family pension on Rs. 10,500/- instead of Rs. 10,251/- and arrears thereon be paid,

8.3 the respondents may be directed to calculate the DCRG on the basis of Rs. 10,500/- and not on Rs. 10,300/- as done by the respondents,

8.4 the respondents may be directed to restore the pay of the applicant on Rs. 10,500/- instead of reducing the pay,

8.5 the respondent may be directed to pay the difference of arrears accrued thereon for different heads as stated above,

8.6 the reduction of pay in calculating the pension and DCRG may kindly be declared as void,

8.7 the respondents may be further directed to pay interest on the delayed payment of DCRG from 3 months after retirement of the applicant up to the date of payment @ 12% per annum.”

2. The brief facts of the case are that the applicant was appointed to Railway service on 25.1.1964. He was promoted to the post of Loco Motive Inspector in the scale of Rs. 6500-10500/. The applicant thereafter taken voluntary retirement from the Railway service on 31.8.2001 on the pay scale of Rs. 10,500/- with full benefits. The applicant was issued the pension payment order on 9.5.2002 after 10 months of his retirement. In this pension payment order an amount of Rs. 2,97,413/- was certified towards his DCRG by the accounts Department. Out of Rs. 2,97,413/- towards DCRG, the applicant was paid an amount of Rs. 2,06,352/- in the month of June, 2002. He was paid less payment of DCRG amounting to Rs. 91,061/-. There was no reason for less payment of DCRG to the applicant. No intimation of any kind was given to the applicant for paying less payment of DCRG. The applicant made a representation dated 29.8.2002 to the respondent No. 2. There has been no response to the same. In the certificates issued to the applicant his pay was shown as Rs. 10,500/-, which means that the applicant received the maximum of pay scale before February, 2000 itself. Therefore, he was drawing the same pay for more than 20 months. From para 2 of pension

payment order it is seen that his average fixing for pension is worked out to Rs. 10,251/- which is not at all correct. When the applicant was drawing Rs. 10,500/- the average calculation for 10 months pay made to the applicant is wrong. Thereby the applicant is getting less pension every month. Moreover, it is also seen that the applicant has been given the retirement gratuity at the pay of Rs. 10,300/- which is also not correct. He further states in his OA, that these retiral dues should have been given within three months from the date of retirement but in his case, he has been paid the retiral dues in June, 2002. The abnormal delay for payment of retiral dues for seven months is attributed to the Railway Administration, and no valid reasons have been given for that. Hence, he is entitled to get interest also. Therefore, this Original Application is filed.

3. Heard the learned counsel for the parties and perused the records carefully.

4. It is argued on behalf of the applicant that according to the records of the respondents itself the applicant was drawing Rs. 10,500/- salary for more than 20 months and for the purpose of calculating the pension and DCRG only last 10 months salary is to be considered. According to the PPO order dated 9th May, 2002 an amount of DCRG was settled at Rs. 2,97,413/- while the applicant was paid only Rs. 2,06,352/- and the respondents have also deducted certain amounts like arrears of house rent to Rs. 743/-, electrical charges to Rs. 20,739/-, Railway employee liberalised health scheme as per option of the applicant to Rs. 13,390/-, overpayment of pay and allowances to Rs. 48,861/- and excess payment of leave to Rs. 7,328/-. This fact is evident from the reply filed by the applicant. The applicant further argued that the respondents have not filed any documentary proof regarding these deductions. These amounts are illegally withheld by the respondent and have also calculated the basic pay of the applicant incorrectly. Hence, the applicant is entitled for the reliefs claimed.

5. In reply the learned counsel for the respondents argued that the applicant while working as Goods Driver was promoted as a Passenger Driver on adhoc basis on 13.12.1990 and subsequently promoted as Traction Foreman (Adhoc) w.e.f. 4.1.1991. His pay was fixed on the basis of the Adhoc Passenger Driver on promotion to the post of Adhoc Traction Foreman Running in scale of Rs. 2000-3000/- w.e.f. 4.1.1991 for Rs. 2825/-. The applicant's pay should have been fixed on the basis of the substantive pay as Goods Driver for Rs. 2625/-as per rules. The applicant was subsequently regularized as Loco Running Supervisor in the scale of Rs. 2000-3200/- vide office order dated 31.10.1995. Therefore, it resulted an over payment of Rs. 48,861/-. The pay of the applicant accordingly was refixed to Rs. 2625/- instead of Rs. 2825/- w.e.f. 4.1.1991 and his pay was to be recasted from 4.1.1991 to 31.8.2001. The over payment of Rs. 48,861/- had been adjusted from the DCRG of the applicant. Accordingly, all the settlement payment had been arranged as per the last pay at Rs. 10,300/-. Further certain Railway dues like arrears of house rent to Rs. 743/-, electrical charges to Rs. 20,739/-, Railway employee liberalised health scheme as per option of the applicant to Rs. 13,390/-, overpayment of pay and allowances to Rs. 48,861/- and excess payment of leave to Rs. 7,328/- have been recovered from the DCRG of the applicant and the balance payment of Rs. 2,06,352/- have been paid to the applicant. The applicant retired on 31.8.2001 and last pay drawn was Rs. 10,500/- is denied by the respondents. The respondents further argued that due to wrong fixation of his pay, his pay was corrected as last pay Rs. 10,300/-. As the applicant was voluntarily retired from 31.8.2001 his service records were sent to associated accounts for review of services and vetting of qualifying service. Wrong fixation of pay was also detected due to double promotion of Adhoc Passenger Driver and Adhoc Traction Foreman in the scale of Rs. 1600-2660/- and Rs. 2000-3200/-. Hence, the delay is caused due to administrative reasons and the payment of interest on DCRG does not arise. Accordingly, the Original Application is liable to be dismissed.



(a)

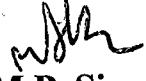
6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the respondents have not issued any recovery certificate for any over payment to the applicant. They have deducted certain amounts on account of arrears of house rent to Rs. 743/-, electrical charges to Rs. 20,739/-, Railway employee liberalised health scheme as per option of the applicant to Rs. 13,390/-, overpayment of pay and allowances to Rs. 48,861/- and excess payment of leave to Rs. 7,328/- from the total amount of DCRG payable to the applicant. The respondents have found that due to wrong fixation of pay of the applicant certain overpayments were made to him. This was later corrected by adjusting the same from the DCRG of the applicant. The respondents have given reasons for deductions made from the DCRG of the applicant. Thus, the question of any recovery from the applicant does not arise as argued by the learned counsel for the applicant. As regards the argument of the respondents they have delayed the payment of DCRG on account of administration lapses as the applicant was voluntarily retired on 31.8.2001 and accordingly his service record were sent to the authority for review of his services and vetting of qualifying service and they also detected wrong fixation of pay due to double promotion of Adhoc Passenger Driver and Adhoc Traction Foreman, is concerned, such explanation of the respondents is legally not tenable, as the applicant is not at all concerned for the delay caused by administrative lapses. The pay scale of the applicant should have been corrected within the due time. The applicant has put to loss in two ways i.e. first by paying less amount of DCRG and secondly he is not paid interest on the actual amount of DCRG paid to him, for which he was legally entitled.

7. Considering all the facts and circumstances of the case we are of the considered opinion that the applicant is entitled for payment of the interests on the amount of DCRG which is actually paid to him by the respondents according to the rules. Accordingly, the Original Application is partly allowed, with a direction to the respondents to grant the applicant interest on the amount of DCRG which is actually paid to him, at the



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prevalent rates, as per the rules, within a period of three months from the date of receipt of a copy of this order. No costs.


(Madan Mohan)
 Judicial Member


(M.P. Singh)
 Vice Chairman

“SA”

पृष्ठांकन सं ओ/न्या
 प लिटिनिपि अन्ये छित :—
 (1) सविक, उच्च न्यायालय कर एसोसिएशन, जबलपुर, दि.....
 (2) आवेदक श्री/श्रीमती/द्वा..... के काउंसल
 (3) प्रस्तुरी श्री/श्रीमती/द्वा..... के काउंसल
 (4) लघुपत्र, कोप्रा. जबलपुर न्यायपीठ
 सूचना एवं आवश्यक कार्यबाही देतु

Raghunendra Pradhan
 P.M. H.C. C.G. B.I. 22/2005
 M. M. Bawaliya
 D.O. 2005

Issued
 On 25.01.05
 B.S.

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 रघुनेन्द्र प्राद्धन