

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.1385 of 2017

Orders reserved on : 25.09.2018

Orders pronounced on : 28.09.2018

Hon'ble Ms. Nita Chowdhury, Member (A)

Nikka Ram Verma, age about 61 years
s/o Late Sh. Babu Ram Ex Sr. Clerk, Group 'C'
r/o Vill. Bharoli Khurd, PO Bharoli Kalan,
Distt. Bilaspur HP.

....Applicant

(By Advocate : Shri Lalta Prasad)

VERSUS

1. Union of India
Through,
General Manager,
Northern Railway,
Baroda House, New Delhi.

2. Divisional Railway Manager,
Delhi Division, Northern Railway,
State Entry Road, New Delhi.

....Respondents

(By Advocate : Shri A.K. Srivastava)

ORDER

By filing this OA, applicants seeking the following reliefs:-

- “(a) Quash & set aside the order dated 30.6.2016 passed by the Sr. Section Engineer, Diesel Shed (NR) Tugalkabad.
- (b) Declare illegal, the action of the respondents for recovery of amount Rs.100966/ from the Gratuity.
- (c) Direct to the respondents to paid the full payment of Gratuity amount Rs.5,13810/- with the delay interest.
- (d) Direct to the respondents issued the new PPO with revised the pension of the applicant.
- (e) Pass any such order/orders which deem fit and proper in the interest of justice.”

2. The grievance of the applicant is that 10 days before his retirement the respondents have passed the order of recovery dated 31.6.2016 whereby ordered recovery of 100666/- from the amount of gratuity, without issuing any show cause notice to him for 33 years ago incident, which is illegal arbitrary and also against the judgment of the Hon'ble Supreme Court in the case of **State of Punjab and others vs. Rafiq Masih**, (2015) 4 SCC 334, as the said impugned recovery vide order dated 30.6.2016 pertains to recovery of excess payment which has been made in the year 1984 to the applicant.

3. The respondents have pointed out in their counter affidavit that in the year 1983 a recovery of WIP of one year w.e.f. October 1983 was to be made from the salary of the applicant. He was also aware of the same but neither paid the amount nor asked for installment nor aver agitated and obtained any order against the same. Hence, while preparing the pension papers when this matter was raised by the Finance, the decision of recovery of the same was affected. Therefore, his case was checked again and pay was revised after affecting his WIP, giving copy to controlling officer for necessary recoveries. His pay as per recommendations of 7th CPC has since been revised from Rs.13840/- in PB-I Rs.5200-20200+2800 GP to Rs.35900/- in level 5. As a result of payments made due to revision of 7th CPC as well as DCRG after making the necessary recoveries (as the same were withheld at the time of his retirement as claimed) have also been released in his favour and nothing is pending at present:

1. Difference of Leave Encashment =Rs. 47600/- on

14.12.2016

2. Difference of Commutation Value = Rs.433923/- on

14.12.2016.

3. Final payment of DCRG = Rs.455184 on 16.3.2018.

3.1 After making necessary deduction as admissible as per extent rules on account of Medical Card and recovery of over payment of excess pay i.e. from Rs.592350-136866=4565184/-). It is further stated that Medical Allowance are being paid to those pensioner who has opted for FMA and surrendered their OPD facilities. In this particular case, no such option with surrender of OPD facility has been submitted by the applicant as yet.

4. Applicant has also filed his rejoinder reiterating the stand taken in the OA and denied the contents of the counter affidavit. It is further stated that the recovery has been made after 30 years long lapse and during this period at many occasions account department has conducted the audit but never raised any objection.

5. Heard learned counsel for the parties and perused the material placed on record.

6. It is admitted fact that punishment of WIP of one year awarded upon the applicant in October 1983, as alleged by the respondents, has not been implemented by mistake which has been rectified by them as at the time of fixation of retiral dues. The respondents are duty bound to check out any discrepancy in the pay of the employee before taking the same into account for the

said purpose and issue of DCRG. The said recovery is not relating to wrong fixation of pay but due to mistakenly non-implementation of the said punishment awarded to the applicant and as such the same recovery is an amount of dues payable to the Government. In view of factual position stated above, the reliance placed upon the aforesaid judgment of the Hon'ble Supreme Court in the case of ***State of Punjab and others vs. Rafiq Masih*** (supra) is not of help to the applicant in any way, as it cannot be held that the applicant is ignorant of this fact that by oversight the said punishment awarded to him has not been implemented in his case.

7. After hearing the respondents, CCS (Pension) Rules were seen. The said Rules, Rules 62, 63 and 73, clearly provide that adjustment under recovery of dues which came to light after the pension papers are put up and which remains outstanding till the date of retirement of the Government servant. Hence, I find that the respondents have acted in accordance with rules and have adjusted the amounts which were recoverable/excess payment done to the Govt. employee, i.e., the applicant of this OA.

8. In view of the above facts and for the foregoing reasons, this Court is not inclined to interfere with the impugned recovery as the same is based on a WIP awarded against the applicant. Hence, this OA lacks merit and the same is accordingly dismissed. There shall be no order as to costs.

(Nita Chowdhury)
Member (A)

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