

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.3379/2016

Reserved on:11.09.2018
Pronounced on:13.09.2018

Hon'ble Ms. Praveen Mahajan, Member (A)

Shri Inder Singh
Aged about 60 years
S/o Shri Ram Bax
R/o H.No.86, Gali No.2
Bhim Nagar Bypass
Ghaziabad (U.P.).
(By Advocate: Shri Lalta Prasad)

... Applicant

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, Pahar Ganj
New Delhi.
(By Advocate: Shri Rahul Pandey)

...Respondents

O R D E R

The applicant in the OA superannuated on 31.01.2016 from the Railway service. His grievance is that the respondents have deducted an amount of Rs.63,517/- from his DCRG. He has, therefore, requested that the deducted amount may be refunded back to with interest.

2. The respondents in their counter have stated that pensionary benefits as per entitlement of the applicant have already been released in his favour. They submit that recovery of Rs.63,517/- has been made from DCRG on account of following reasons :-

“(i) Medical charges for RELHS = 31252/-

| | | | |
|-------|--------------------------|---|---------------------------------|
| (ii) | Identity card charges | = | 10/- |
| (iii) | Recovery of over payment | = | 19096/-+Rs.13159/- + 32255/- |
| | Total Rupees | = | 63517/-" |

3. During the course of hearing, learned counsel for the applicant, Shri Lalta Prasad argued that on account of the judgment passed by Hon'ble Apex Court in the case of **State of Punjab and others Vs. Rafiq Masih** AIR 2015 SC 696, the aforementioned deduction has been illegally made, notwithstanding the fact that the recovery has been made without issuing any show cause notice, which is against the principles of natural justice. He also argued that the DCRG has been paid to him after a period of four months, without interest, which is against RBE 15/2000 issued by the Railway Board.

4. Per contra, the learned counsel for the respondents, Shri Rahul Pandey explained that the said deduction is on account of over payment amounting to Rs.32255/- for the period from 01.01.2006 to 29.06.2006 and 01.07.2006 to 30.06.2010, inadvertently made by the respondents to the applicant. The second component of deduction pertains to medical charges for RELHS and ID Card charges. He submitted that the applicant himself had given an undertaking that the medical charges to the tune of Rs.31,252/- can be recovered from his salary as per rules by the respondents. This fact was not disputed by the applicant's counsel.

5. I have gone through the facts of the case and heard both sides.

6. In my view the amount of Rs.31,252/- + Rs.10/- for identity card has rightly been deducted by the respondents as per rules. However recovery of excess payment of Rs.32,255/- made to the applicant more than a decade ago, is impermissible in law, as held by the Hon'ble Supreme court in the judgment **State of Punjab and others Vs. Rafiq Masih** (supra), wherein it has been held that recovery would be impermissible if it falls under the following categories :-

- "(i) Recovery from employees belonging to Class-III and Class IV services (Group C and Group D service).
- (ii) Recovery from retired employees, employees who are due to retire within one year, of the order of recovery.

- (iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.
- (iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.
- (v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

7. The recovery of Rs.32,255/- made by the respondents for alleged excess payment, squarely falls within the aforesaid category (i) & (v). I, therefore, direct the respondents to refund the amount of Rs.32,255/- to the applicant within three months from the date of issue of this order.

8. Since DCRG was paid to the applicant within four months from his superannuation, I am not inclined to consider his claim for interest. OA is partially allowed. No costs.

(Praveen Mahajan)
Member (A)

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