

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

Original Application No.426 of 2017

Date of order : 09-03-2018

Between :

P.C.NARASIAH, aged 57 years,
Station Superintendent,
South Central Railway, Vijayawada,
S/o Sri P.P.Penchalaiah,
R/o D.No.8-5-1À, Balaji Rao Peta,
Tenali – 522 202, Guntur District.

....Applicant

AND

1. Union of India,
Rep by The General Manager,
South Central Railway, Rail Nilayam,
Secunderabad – 500 071.
2. The Divisional Railway Manager,
South Central Railway,
Vijayawada – 520 001.
3. The Senior Divisional Finance Manager,
South Central Railway,
Vijayawada – 520 001.
4. The Divisional Railway Manager (Personnel),
South Central Railway,
Vijayawada – 520 001.

...Respondents

Counsel for the Applicant: Mr. M.Bhaskar

Counsel for the Respondents : Mr.M.Venkateswarlu,SC for Rlys

CORAM :

THE HON'BLE MR.JUSTICE R.KANTHA RAO, JUDICIAL MEMBER

THE HON'BLE MRS. MINNIE MATHEW, ADMINISTRATIVE MEMBER

(Oral order per Hon'ble Mr.Justice R.Kanta Rao, Judicial Member)

(Oral order per Hon'ble Mr.Justice R.Kanta Rao, Judicial Member)

The applicant was appointed as Assistant Station Master in Guntakal Division, South Central Railway on 30-10-1982 in scale Rs.330-560/1200-2040 (RSRP). He was promoted as Assistant Station Master to scale Rs.425-640/1400-2300 (RSRP).

2. At the time of his transfer on request to Vijayawada Division, he was not extended the benefit of pay protection by fixing his pay at Rs.1480/-, which was Last Pay Drawn by him in the parent division of Guntakal. However, the applicant was extended the benefit of pay protection with effect from 29.09.1987 as per the orders in OA No.1586 of 1995 and his pay was inadvertantly fixed at Rs.1680/- in the promoted scale of Rs.1400-2300 RSRP with effect from 23.08.1991. Later the applicant's pay was revised and re-fixed at Rs.1640/- in the scale of Rs.1400-2300 with effect from 23.08.1991, resulting in excess payment of Rs.44,367/-.

3. The OA is filed to set aside the action of the respondents in recovering the excess amount from the applicant and to direct the respondents to refund the same with interest at the rate allowed on GPF from the date of recovery to the date of refund.

4. The claim of the applicant is opposed by the respondents in their reply statement contending that the applicant's pay was erroneously fixed

at Rs.1680/- instead of Rs.1640/- in the scale of Rs.1400-2300 duly allowing the pay fixation benefit second time which was not in order. Accordingly the applicant's pay was revised and refixed correctly.

5. We have gone through the rival submissions and perused the judgement of the Hon'ble Supreme Court in the case of **State of Punjab and others Vs. Rafiq Masih (White Washer) etc. In Civil Appeal No.11527/2014 dated 18.12.2014.**

6. The recovery from the pay of the applicant was made virtually after a lapse of more than 25 years. In the above referred judgement, the Hon'ble Supreme Court held that the recovery from the employees belonging to Class-III and Class IV service (or Group 'Ç' and Group 'D' service), recovery from retired employees or employees who are due to retire within one year of the order of recovery, 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 would be impermissible in law. Therefore, in our view the recovery effected in case of the applicant is liable to be set aside in the light of the above judgement of the Hon'ble Supreme Court.

7. Consequently the action of the Respondents in effecting recovery of an amount of Rs.44,367/- from the pay of the applicant from July, 2016 to April, 2017 is set aside. The Respondents are directed to refund the said amount to the applicant with interest which is allowed on GPF from the date of recovery till the date of refund.

8. In the result, Original Application is allowed.

9. No order as to costs.

(MINNIE MATHEW)
ADMINISTRATIVE MEMBER

(R.KANTHA RAO)
JUDICIAL MEMBER

Dated : 9th March, 2018.
Dictated in Open Court.

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