

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD**

OA/020/977/2017

Date of Order : 19.06.2018

Between:

B.V. Chalapathi Rao,
S/o. B. Adi Narayana Murthy,
Aged 60 years,
SSE (Electrical)/ BZA (Retd), Group 'C' Post,
Senior DEE/ TRD/ O/ Vijayawada,
South Central Railway,
D.O.41-37-65, Kothamanchine Bazar,
Krishnalanka,
Vijayawada – 520 013.

..... Applicant

AND

1.Union of India rep. by
The General Manager,
South Central Railways,
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 Sr. Divisional Personnel Officer,
South Central Railway,
Vijayawada – 520 001.

..... Respondents

Counsel for the Applicant : Mr. M. Bhaskar

Counsel for the Respondents : Mr. M. Brahma Reddy, SC for Rlys.

CORAM :

THE HON'BLE MR.JUSTICE R.KANTHA RAO, JUDL. MEMBER
THE HON'BLE MRS. MINNIE MATHEW, ADMN. MEMBER

ORAL ORDER

{ Per Hon'ble Mr.Justice R.Kantha Rao, Judl. Member }

The applicant was appointed to the Group ' C' post of Tracer in the scale of Rs.260-430 (RS) and was posted to Senior Divisional Electrical Engineer/ Traction Distribution Office at Vijayawada on 11.1.1980. Thereafter he was promoted to various grades of Junior Draftsman, Senior Draftsman, Head Draftsman and to the grade of Section Engineer, pay scale of which is Rs.6500-10500/-. He retired on superannuation as Senior Section Engineer, Electrical, Vijayawada on 30.06.2017.

2. It is submitted by the Applicant that he was granted financial upgradation under MACP Scheme to the Grade Pay of Rs.4800/- on 01.09.2008 & to the Grade Pay of Rs.5400/- on 11.01.2010. But on 09.06.2016, the benefit of financial upgradation given to him to the Grade Pay of Rs.4800/- & Rs.5400/- was withdrawn by the Respondents. An amount of Rs.5,41,331/- was deducted from his terminal benefits. On representing to the Respondents, Respondent No.4 informed the Applicant that MACP benefit of GP Rs.4800/- & Rs.5400/- granted on 01.09.2008 & 11.01.2010 respectively are withdrawn. Hence, the overpayment consequent to the revision of pay amounted to Rs.4,69,618/-. Contribution of Rs.68000/- towards Railway Employees Liberalized Health Scheme (RELHS) is also deducted along with overpayment. Total amount of deduction is Rs.5,37,618/- as against less credit of Rs.5,41,331/- . So there is unaccounted recovery of Rs.3,713/- along with over payment of Rs.4,69,618/-. Out of the less credit of Rs.5,41,331/-, the contribution of

Rs.68,000/- towards RELHS is agreed to by the Applicant. The total amount of recovery due to over payment will be Rs.4,73,331/- (Rs.4,69,618 + 3713) including the recovery of unaccounted amount of Rs.3713/-. The Applicant further submitted representation on 25.10.2017 against recovery of unaccounted amount of Rs.3713/-.

3. The O.A. is filed to set aside the action of the respondents in recovering the excess amount from the applicant after a lapse of more than 7 years 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. Learned counsel appearing for the Applicant produced a copy of the O.M. dated 2.3.2016 issued by DoPT regarding 'Recovery of wrongful/ excess payments made to Government servants' in support of his case.

4. The claim of the applicant is opposed by the respondents in their reply statement contending that the applicant was erroneously granted the benefit of MACP to the Grade Pay of Rs.4800/- & Rs.5400/-. Accordingly deduction was made from his terminal benefits.

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 retirement benefits of the applicant was made

virtually after a lapse of more than 7 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 'C' and Group 'D' service), from retired employees or employees who are due to retire within one year of the order of 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 affected 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.4,73,331/- from the retiral benefits of the applicant 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, the Original Application is allowed. No order as to costs.

(MINNIE MATHEW)
ADMN. MEMBER

(JUSTICE R.KANTHA RAO)
JUDL. MEMBER

pv