



CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No. OA. 350/1248/2016

Date of Order: 02.07.2018

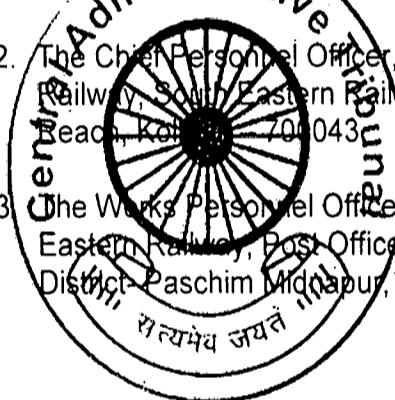
Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Manas Kilikdar, son of late Mumud Baran Kilikdar, aged about 44 years, working as Instructor (Computer) STC, Kharagpur, Residing at Malaneha Word No. 14, Post Office- Nimpura, District- Paschim Midnapur, Pin- 721304, West Bengal.

.....Applicant.

-versus-

1. The Union of India, through the General Manager, South Eastern Railway, Garden Reach, Kolkata 700043.
2. The Chief Personnel Officer, South Eastern Railway, South Eastern Railway, Garden Reach, Kolkata 700043.
3. The Works Personnel Officer, South Eastern Railway, Post Office- Kharagpur, District- Paschim Midnapur, Pin- 721301.



.....Respondents.

For the Applicant : Mr. A. Chakraborty, Counsel

For the Respondents : Ms. G. Roy, Counsel

ORDER (Oral)

Per Ms. Bidisha Banerjee, Judicial Member:

Heard both.

2. Aggrieved with a recovery of an amount of Rs. 1,08, 218/-, the applicant in this O.A. has sought for the following reliefs:

"8(I) Memo no. SER/P-KGP/Staff/227/Faculty/Trg Allowance dated 12.01.2016 issued by Workshop Personnel Officer, South Eastern Railway, Kharagpur cannot be sustained in the eye of law and same may be quashed.

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(II) An order do issue directing the respondents to grant the grade pay of Rs. 4200/- on the pay of Rs. 14190/-p.m. against the existing vacancy."

3. Applicant has relied upon the decision in **State of Punjab & Ors. vs. Rafiq Masih, CA No. 11527 of 2014** where the Hon'ble Apex Court propounded that

"orders passed by the employer seeking recovery of monetary benefits wrongly extended to employees, can only be interfered with, in cases where such recovery would result in a hardship of a nature, which would far outweigh, the equitable balance of the employer's right to recover".

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"interference would be called for, only in such cases where, it would be iniquitous to recover the payment made."

Hon'ble Court ruled that 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 is impermissible.

4. In the instant case the recovery has been ordered as excess payments were made since September, 2009 to 5 years prior to the proposed recovery.

5. Since recovery of Rs. 1,08,218/- from the salary of the applicant has been ordered without any show cause or notice or proceedings and in terms of the decision of **Rafiq Masih supra** which propounds that in case 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, the respondents are directed to refund the recovered amount to the applicant forthwith with liberty to act in accordance with law, if law permits.

6. Accordingly, OA is disposed of. No costs.

(Dr. Nandita Chatterjee)  
Member (A)

(Bidisha Banerjee)  
Member (J)

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