

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/1407/2016

Date of order : 7.3.2017

Present: Hon'ble Mr.A.K.Patnaik, Judicial Member

PRATAP GHOSH MAZUMDAR

S/o Late Mohan Ghosh Mazumdar,
Aged about 61.years,
Retired Lower Division Clerk,
Office of the Commissioner of
Railway Safety Eastern Circle,
14 Strand Road (12th Floor),
Kolkata - 700001,
R/o Moinak Apartment,
157 Jessore Road,
Flat No. 4A,
Kolkata - 700048.

...APPLICANT

VERSUS

1. Union of India, through
The Secretary,
Govt. of India,
Ministry of Civil Aviation,
Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi - 110003.
2. The Joint Secretary & PGO,
Ministry of Civil Aviation,
Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi - 110003.
3. The Chief Commissioner of
Railway Safety,
16 Ashok Marg,
Lucknow - 226001.
4. The Commissioner of
Railway Safety,
Eastern Circle,
New Koilaghat Building,
14 Strand Road,
Kolkata - 700001.
5. The Asst. Controller of Accounts,
Pay & Accounts Office,
Ministry of Civil Aviation,
Room No. 178, 'B' Wing,
174 Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi - 110003.

...RESPONDENTS.

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For the applicant : Mr.S.K.Dutta, counsel

For the respondents: Mr.S.Paul, counsel

O R D E R

Mr.A.K.Patnaik, J.M.

Heard Mr.S.K.Dutta, Id. Counsel appearing for the applicant and Mr.S.Paul, Id. Counsel appearing for the respondents.

2. This OA has been filed under Section 19 of the A.T.Act, 1985 for the acts or omissions on the part of the respondents in deducting a sum of Rs.4,88,162/- from the DCRG of the applicant unilaterally and illegally and for the acts or omissions on the part of the respondent authorities in not considering the representations of the applicant for refund of the aforesaid amount of Rs.4,88,162/- and in not refunding the said amount, ^{and hence} seeking the following reliefs :

- a) An order holding that the deduction of a sum of Rs.4,88,162/- from the DCRG of the applicant is bad in law and arbitrary;
- b) An order directing the respondent authorities to refund the amount of deducted sum of Rs.4,88,162/- to the applicant within a period as to this Hon'ble Tribunal seem fit and proper with interest @ 9% p.a.
- c) An order directing the respondents to produce/cause production of all relevant records.
- d) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper.

3. Mr.Dutta submitted that the applicant came on deputation to the Commissioner of Railway Safety under the Ministry of Civil Aviation from an autonomous body in the year 1994 and subsequently, absorbed in the same year as LDC in the organization of Commissioner of Railway Safety. Subsequently he was granted ACP benefits taking into account his service under the autonomous body but after his retirement w.e.f. 31.5.2015, the same was found to be erroneous and the same was withdrawn and the applicant was granted ACP benefit from a subsequent date as 1st financial upgradation under the said scheme and thereafter he was granted 2nd MACP benefit as a result of which his last pay drawn as well as earlier benefit of pay drawn by him were reduced and after retirement a sum of Rs.4,88,162/- has been deducted from the DCRG of the applicant although the applicant had no fault in the matter.

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The applicant has made several representations for refund of that amount but to no effect. As such the applicant is constrained to approach this Tribunal for ends of justice.

4. He further submitted that since all these representations have been preferred by the applicant and the last one being made on 23.5.2016 as well as 26.8.2016 and the same are still remain unanswered, the applicant will be more or less satisfied if a direction can be issued to the respondent No.2 to consider those representations and pass appropriate orders within a specific time frame.

5. I do not think it will be prejudicial to either of the sides if such a direction is given and accordingly without entering into the merits of the case, the OA is disposed of by directing the respondent No.2 to consider the representations dated 23.5.2016 as well as 26.8.2016 (Annexure A/11 to the OA), if the same are still pending consideration and dispose it of keeping in mind the rules and regulations in force by passing a well reasoned and speaking order and communicate the same to the applicant within 2 months from the date of receipt of this order.

6. Though I have not expressed any opinion on the merit of the matter and all the points raised in the representations are kept open for the said respondent No.2 to consider the same as per the rules and regulations in force, still then I hereby direct that after such consideration if the applicants' grievance is found to be genuine then expeditious steps may be taken within a further period of 3 months from the date of such consideration to extend those benefits to the applicant and refund the excess amount that has been recovered from the salary of the applicant when he was in service.

7. As prayed for by Mr.Dutta, a copy of this order along with the paper book of this OA be transmitted to respondent No.2 by Speed Post for which he will deposit the cost with the Registry within a period of one week.

8. With the aforesaid observation and direction the OA is disposed of at the admission stage itself. No costs.

(a) Sl. No. of the appln.

(b) Name of the applicant.....

(c) Dt. of presentation or application for copy.....

(d) No. of pages.....

(e) Copying fee charges/urgent or ordinary.....

(f) Dt. of preparation of copy.....

(g) Dt. of delivery of the copy to the applicant.....

(A.K.PATNAIK)
MEMBER (J)