

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00457/2017

Reserved on : 26/09/2018
Pronounced on : 12/10/2018

C O R A M

HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER

Bhaiyajee, Son of Late Guja Yadav, Ex-Trolyman under Senior Section Engineer (P. Way), East Central Railway, Khagaria, Resident of Village/Mhallaha- Khajuri, Ward No. 9, P.O.- Khajuri, P.S.- Saur BVazar, District- Saharsa (Bihar), Pin Code- 852201.

..... Applicant.

- By Advocate: - Mr. S.K. Tiwary

-Versus-

1. The Union of India through the General Manager, East Central Railway, Hajipur, PO- Digghi Kalan, PS- Hajipur, District- Vaishali at Hajipur, Pin Code- 844101 (Bihar).
2. The General Manager (Personnel), East Central Railway, Hajipur, PO- Digghi Kalan, PS- Hajipur, District- Vaishali at Hajipur, Pin Code- 844101 (Bihar).
3. The Financial Advisor & Chief Accountts Officer, East Central Railway, Hajipur, PO- Digghi Kalan, PS- Hajipur, Pin Code- 844101 (Bihar).
4. The Divisional Railway Manager, East Central Railway, Samastipur, PO- Samastipur, PS- Samastipur, District- Samastipur (Bihar)- 848101.
5. The Senior Divisional Personnel Officer, East Central Railway, Samastipur, PO- Samastipur, PS- Samastipur, District- Samastipur (Bihar)- 848101.
6. The Senior Divisional Financial Manager,, East Central Railway, Samastipur, PO- Samastipur, PS- Samastipur, District- Samastipur (Bihar)- 848101.
7. The Senior Divisional Engineer (Coordination), East Central Railway, Samastipur, PO- Samastipur, PS- Samastipur, District- Samastipur (Bihar)- 848101.
8. The Assistant General Manager, State Bank of India, Centralized Pension Processing Cell (CPPC), 4th Floor, J.C. Road, Patna- 800001(Bihar).

9. The Branch Manager, State Bank of India, Saharsa Bazar Branch, District- Saharsa (Bihar), Pin Code - 852201.

..... Respondents.

- By Advocate(s) : - Mrs. P.R. Laxmi (Railways)
Mr. A.K. Mishra (SBI)

ORDER

J.V. Bhairavia, J.M: - in the instant OA aggrieved by the impugned order dated 03.03.2017 together with order dated 12.06.2017 respectively whereby the basic pension of the applicant has been reduced to the tune of Rs. 4,065/- per month and recovery of Rs. 3,19,454/- has been ordered to be recovered against the overpayment from his monthly pension, the applicant has filed this OA. He has also prayed for quashing and setting aside the impugned order. Further, he has sought relief for direction to the respondents to refund the amount which has already been recovered against so called overpayment along with statutory interest thereupon and further direction to restore the reduced basic pension and fix the same after adding Rs. 4,065/- from the date of its reduction and payment of arrears thereof.

2. The brief facts of the present case is as follows:-

2.1 The applicant superannuated from service on 31.05.2004 and he was paid all his retiral dues including regular pension.

2.2. The applicant came to know that he is getting lesser pension than what he was getting prior to 2014. His pension has been reduced by the respondents and recovery of Rs. 4065/- per

month has been realized. Therefore, he had submitted a detailed representation before the competent authority. Considering the same, the respondents Railway Department had issued an order dated 07.09.2015 directing his counterpart to restore his pension and stop recovery (Annexure A/3 refers).

2.3. However, the concerned Department has not followed the said direction and continued to recover an amount of Rs. 4,065/-.

To substantiate this submission the applicant placed reliance on the pension slip of October, 2016 (Annexure A/4 refers).

2.4. Thereafter, the applicant has preferred another representation before the competent authority and also brought to the knowledge of the authorities with regard to the judgment of Hon'ble Supreme Court in the case of **State of Punjab & Ors. Vs. Rafiq Masih** and requested to stop recovery and refund the recovered amount.

2.5. It is contended that the applicant was waiting for positive reply. However, vide order dated 03.03.2017 and 12.06.2017 the applicant was intimated that his entire pension from the month of July, 2017 had been stopped on account of recovery of Rs. 3,19,454/- towards overpayment of pension (Annexure A/7 refers).

2.6. It is submitted that without any show cause his pension has been reduced after more than 13 years of his retirement and therefore the said action is in violation of principles of natural justice as also law laid down by the Hon'ble Apex Court.

3. The respondent no. 1 to 7 (Railways) and respondent no. 9 (State Bank of India, Saharsa Bazar Branch, Saharsa) have filed their respective written statements.

4. The respondents Railways in their written statement have submitted that no recovery order was passed by the Railway Administration to reduce or stop the payment of pension of the applicant. It is submitted that on receipt of applicant's grievance with regard to non-payment of pension, SBI, Saharsa Branch was approached vide office letter dated 07.09.2015 requesting not to stop the pension of the applicant. They came to know about stoppage of pension only after receipt of the copy of the OA after which the Railway Administration approached the Bank vide letter dated 07.12.2017 with a request not to stop the pension and to release the same immediately (Annexure R/3 refers). It is submitted that the reply of Bank is awaited.

5. The respondent no. 9, i.e. State Bank of India, Saharsa Bazar Branch, Saharsa in his written statement has submitted that the amount which was paid and deducted by the Bank is based on the PPO/authorization of the concerned department, i.e. Railways and the Bank is not liable for the same which acted as per the PPO/authorization. It is submitted that the account of the applicant has been made free and now there is no hold on the applicant's account no. 11024167188.

6. Written submission has been filed by the respondents Railways (R-1 to R-7) through their counsel Smt. P.R. Laxmi.

Respondent no. 9, i.e. SBI has filed additional documents by way of a table showing pension already paid and pension payable to the applicant as directed by this Tribunal.

7. It is noticed that the applicant was working as Trolleyman under Senior Section Engineer, Khagaria. He superannuated from service on 31.05.2004. It is not in dispute that after superannuation from service on 31.05.2004 all retiral dues were paid to him. His PPO was issued on 05.07.2004 whereby his basic pension was fixed at Rs. 2914/- in which Rs. 1165/- was commuted and Rs. 1749/-+DA was sanctioned for payment w.e.f. 01.06.2004. Vide letter dated 12.06.2017 the applicant and the concerned Bank were informed that there was excess payment paid to the applicant and the said overpayment is required to be remitted back to the government account. The concerned Bank had also informed the applicant vide their letter dated 03.03.2017 that the basic pay of the applicant of Rs. 6587/- has been revised and it was fixed at Rs. 4390/-. Therefore, the applicant is liable to refund the excess payment made to him through his pension account. Thereafter, in the light of 6th CPC his pension was revised and fixed at Rs. 4390/- as per revised PPO dated 27.09.2013 (Annexure R/1 and R/2 refers). Accordingly, family pension of Rs. 3500/- was determined vide PPO dated 27.09.2013. It is further contended that as per the instructions received from the Department that at present the applicant is operating his account and the respondents Railways have not issued any instructions for recovery.

8. In the present case, it is noticed that the applicant had raised main grievance with respect to reduction of his pension without any show cause notice before such reduction. On examination of Annexure R/1 with respect to disbursement of pension through Public Sector Banks which corroborates the revision of pay on introduction of 6th CPC, it is further noticed that the PPO dated 27.09.2013 was issued wherein the normal family pension and relief was determined upto 23.09. 2012 @ Rs. 4390/- and w.e.f. 24.09.2012 @ Rs. 3500/-. This is a case of revision of pension. The respondents have categorically stated that they have not instructed the respondents Bank to stop the pension account of the applicant. The State Bank of India, the respondents herein had also informed the applicant vide their letter dated 03.03.2017 that due to revision in pay fresh PPO was issued by revising his basic pay from Rs. 6587/- to Rs. 4390/-. Therefore, according to the respondents there is overpayment made to the applicant and the same was ordered to be recovered.

9. It is not in dispute that the applicant has misrepresented anything nor has he produced any illegal or frivolous document before the authorities. Therefore, the so called amount of excess payment cannot be recovered in view of the law laid down by the Hon'ble Apex Court in the case of **State of Punjab & Ors. Vs. Rafiq Masih** (White Washer). The respondents ought not to have recovered any amount from the pension account of the retired employee, i.e. applicant herein. Since there is no material on record

which can be said that the applicant had mis-represented or wrong information was provided to the respondents. The respondents Bank ought not to have recovered any amount on the basis of undertaking of the applicant authorizing the bank to settle the account by way of recovery.

10. Considering the law laid down by Hon'ble Apex Court(supra) in the present case it is admitted fact there is no misrepresentation on behalf of the applicant and he was regularly receiving his regular pension. The respondents have revised the pension amount and accordingly the said amount of pension was paid to the applicant. During this period, if any, excess payment paid to the applicant it was not fault of the applicant. Under the circumstances, it is directed to the respondents that no recovery from the pension amount of the applicant be made and settle the account by refunding the amount, if recovered, by settling the account of the applicant within two months from the date of receipt of this order.

11. In view of the above, the OA is disposed of. No order as to costs.

**[Jayesh V. Bhairavia]
Judicial Member**

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