

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA050/00126/2018

Order, dated 24.09.2018

CORAM

HON'BLE MR. JAYESH V. BHAIKARIA, MEMBER (J)

Janardan Pandit, S/o Lalte Budhi Ram Pandit, R/o Village-New Karbigahiya, Near Shakuntala Utsav Hall, Bus Stand Road, P.O. G.P.O., P.S. Jakkampura, District-Patna.

..... Applicant.

By advocate: Sri S.R. Sinha.

Verses

1. The Union of India through East Central Railway, Hazipur, Pin 800017.
2. The Catering Commercial Manager, East Central Railway, Hazipur, Pin 800017.
3. The Divisional Railway Manager, East Central Railway, Danapur, PIN-800011.
4. The Senior D.P.O. East Central Railway, Danapur, PIN-800011.
5. The Senior Divisional Commercial Manager, East Central Railway, Danapur, PIN-800011.
6. The Senior Divisional Finance manager, East Central Railway, Danapur, PIN-800011.

..... Respondents.

By advocate: Sri Ajoy Kumar.

O R D E R (ORAL)

Per Jayesh V Bhairavia /M (J):- In the present OA, the applicant has prayed for issuance of direction to the concerned respondents to pay his all retiral benefits with interest thereon and also prayed for refund of recovered amount.

2. It is contended by the applicant in this OA that he was retired from service on 31.08.2017 from the post of Catering Inspector, Jan Aahar, Patna Junction Patna and after his retirement he has not received his all retiral dues till date. He has submitted his

representation dated 30.08.2017 and claimed his reitral dues. Till date, he has not received any reply.

3. Learned counsel for the applicant submits that the applicant had issued legal notice through his lawyer to the respondents and requested to pay all his retiral dues vide notice dated 20.09.2017 (Annexure-A/1). He further submits that the applicant had received one letter dated 23.10.2017 issued by the office of Senior Divisional Karmik Office, E.C. Railway, Danapur whereby he was informed that a sum of Rs. 13, 36,189/- was due in the name of the applicant and the said amount was required to be deducted from his total amount for the settlement. The applicant was called upon to give his consent to deduct the outstanding amount from his commutation and gratuity amount. (Annexure-A/2).

4. Learned counsel for the applicant further submits that the respondents were erroneously and wrongly deducted/recovered an amount of Rs. 5000/- per month with respect to outstanding amount of Rs. 13,36,189/- . He also submits that no any show cause notice was issued to the applicant for the said outstanding amount. Therefore, the respondents are not entitled to recover any amount from the retiral dues of the applicant.

5. The respondents have filed their written statement and denied the contention of the applicant. Learned counsel for the respondents submits that the applicant was issued a show cause notice on 23.10.2017 whereby it was intimated to him that why not

Rs. 13, 36,189/- be deducted from the settlement dues (Annexure-R/1), and in response to the said show cause notice, the applicant vide his letter dated 02.11.2017, informed the respondents that the said outstanding amount be deducted from his commutation and gratuity amount and requested to release his balance amount for gratuity and also requested to grant his pension.

6. After receipt of consent from the applicant, the PPO was issued and his dues were settled. As per the respondents, the total amount sanctioned Rs.22, 12,800/- towards his retiral dues, out of which Rs. 13,36,189/- was deducted towards dues payable by the applicant and accordingly Rs.8,76,609/- has been determined to be paid to the applicant and the same was approved and payment was made to the applicant. Therefore, there is no due remained to be paid on behalf of the respondents. L/c for the respondents placed reliance on the PPO dated 30.11.2017, issued in favour of the applicant for the purpose of disbursement of pension and also the settlement calculation sheet, (Annexure-R/2 series).

7. In response to the written statement, the applicant has filed rejoinder/reply and reiterated his submission and additionally submitted that because applicant and his family was in dire financial crunch and there was no other source of income after his retirement, the respondents have forcefully taken consent from the applicant. The applicant had no other option except to give consent. However, in fact, the applicant was not liable to pay any amount to the respondents as alleged against him. It is also submitted by the

counsel for the applicant that the applicant filed representation before Senior D.C.M. E.C. Railway, Danapur Patna on 21.08.2017 and informed that applicant has been posted in place of one S.K. Laheri who is under suspension. However, the said Mr. Laheri has not given charge to the applicant and all the cash transaction work in the office he himself handling and, therefore, he is required to be restrained to do so. He further requested the authority that if any illegality committed by the said Laheri, he will not be responsible for it. L/c for the applicant placed reliance on the additional documents produced in his rejoinder, i.e. representation dated 21.08.2017, (Annexure-A/4).

8. Learned counsel for the applicant further submits that as per law laid down by the Hon'ble Apex Court as well as Hon'ble High Court, no recovery of gratuity etc. is permissible after retirement of the employee. He has placed reliance on the judgment reported in 2018 (2) PLJR 9333 and 2018 (3) PLJR 307.

9. The respondents have filed reply to the rejoinder filed by the applicant and denied the contention of the applicant as stated in his rejoinder. It is additional submitted that the pension of the applicant has been released from 01.09.2017 as he retired on 31.08.2017. There was delay on the part of the respondents in issuance of PPO as huge railway revenue was pending against the applicant and after issuance of the show cause notice and after the reply dated 02.11.2017 given by the applicant, the office of respondents have immediately settled the retiral dues of the applicant and issued the

PPO on 30.11.2017. It is further submitted that issue raised by the applicant with respect to the charge not given by one Mr. Laheri to him was never raised by the applicant at the time of settlement of his dues. The applicant was aware about his outstanding running on his name.

10. Learned counsel for the respondents further submits that as per Rule 15 of Railway Service (Pension) Rules 1993, the respondents are entitled to recover and adjust railway dues from the pensionary benefits. Since, there was outstanding running in the name of the applicant, the show cause notice was issued and the office of respondents has correctly adjusted the said outstanding amount from the dues of retiral benefits of the applicant, that too with the consent of the applicant. Therefore, the applicant is not entitled for any relied as prayed for.

11. Heard the parties and perused the materials on record. It is noticed that on retirement of the applicant, the office of the respondents has brought to the knowledge to the applicant about his liability to pay outstanding amount of Rs.13, 36,189/- which was pending since long in the name of the applicant. In response to letter dated 23.10.2017, the applicant has submitted his reply and he consented to deduct the said outstanding amount from his retiral dues and requested to settle his account for the purpose of releasing his pension and other retiral benefits. Accordingly, the outstanding amount was deducted from his

commutation and gratuity amount and after settlement his dues, issued the PPO. The details of the said settlement dues are as under:-

Accordingly, the applicant was issued PPO and Paid settlement dues as under:-

Amount passed			Deduction	
1	PPO No.	20177300500563 Dated 30.11.2017	E.C.C.S. Loan	Rs. 57,539/-
2	DCRG	Rs. 8,00,415/-	Overpayment	Rs.280/-
3	Leave	Rs. 4,66,505/-	Commercial Dept	Rs. 12,32,160/-
4	Commutation	Rs. 9,08,551/-	RELHS	Rs. 46,200/-
5	GIS	Rs. 37,329/-	I.Card	Rs. 10/-
Total		Rs. 22,12,800/-	Total	Rs. 13,36,189/-
To be paid		Rs. 22,12,800/- - Rs. 13,36,189/-	= Rs. 8,76,611/-	
The amount paid Rs. 8,39,280/- + Rs. 37,329/- = Rs. 8,76,609/-				

12. It is noticed that under Rule 15 of Railway Service (Pension) Rules 1993, the respondents have settled railway dues from the pensionary benefits of the applicant with the consent of the applicant and accordingly PPO was issued on 30.11.2017 whereby an amount of Rs. 23100/- has been fixed towards the pension, out of which Rs. 9240/- has been ordered to be deducted from pension from 01.09.2017 with respect to said outstanding amount.

13. It is noticed that after consent of the applicant, the respondents have deducted the outstanding amount from his retiral benefits and settled his retiral dues. In this regard, the submission of the applicant is that it was done forcefully by the respondents. The said submission of the applicant is found to be after thought and contrary to the material on record, therefore, it cannot be accepted.

So far judgments relied upon by the applicant (supra) are not helpful to him in the facts and circumstances stated hereinabove.

14. In view of the above observations, the OA is dismissed being devoid of merits.

[Jayesh V. Bhairavia]M(J)

Bp/-