

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.20/1127/2017

**Reserved on: 18.12.2018
Order pronounced on: 21.12.2018**

Between:

B. Venkata Ramudu, S/o. late Sri Giddaiah,
Aged about 64 years, Retired Dy. Chief Ticket Inspector,
O/o. SMR/O/Dhone, Guntakal Division,
South Central Railway, District Ananthapur,
R/o. H. No. 46-166-15A, Budhwarperta, Kurnool.

...Applicant

And

1. The Union of India, rep. by
The Chairman, Railway Board,
Ministry of Railways, Rail Bhavan, New Delhi – 110 001.
2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Divisional Railway Manager,
South Central Railway, Guntakal Division,
Guntakal, District Anantapur.
4. The Senior Divisional Personnel Manager,
South Central Railway, Guntakal Division,
Guntakal, District Anantapur.
5. The Financial Advisor & Chief Accounts Officer,
South Central Railway, Rail Nilayam,
Secunderabad – 500 071.
6. The Senior Divisional Finance Manager,
S.C. Railway, Guntakal Division,
Guntakal, District Ananthapur.

...Respondents

Counsel for the Applicant ... Mrs. Rachna Kumari
Counsel for the Respondents ... Mr. N. Srinivasa Rao, SC for Rlys

CORAM:

Hon'ble Mr. B.V. Sudhakar ... Member (Admn.)

ORDER
{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

2. The OA is filed for not fixing the pension based on the last pay drawn.

3. Brief facts of the case are that the applicant joined the respondents organisation on 20.12.1977 as a casual labour and rose up to the rank of Dy. Chief Ticket Inspector. Intermittently he was medically decategorised and finally opted for voluntary retirement and retired on 30.9.2009 as Dy. Chief Ticket Inspector in the pay scale of Rs.9300-34,800 with grade pay of Rs.4200. The last pay drawn for the months of July, Aug and Sep of 2009 is Rs.18,280, whereas in the PPO issued it was shown as Rs.17,740. The applicant made several representations and the last one to the 1st respondent was on 16.4.2017. As there was no response the OA is filed.

4. The contentions of the applicant are that pension has to be worked out on the last pay drawn and not doing so is illegal and arbitrary. Pension rules are statutory in nature and cannot be violated. Pension has to be drawn based on the orders of this Tribunal in OA Nos.658/2011, 1334/2010 & 1220/2013 wherein pension was ordered to be calculated based on the last pay drawn.

5. Respondents contend that the pay scale of the applicant when he retired voluntarily on 30.9.2009 was Rs.9300-34,800 with G.P of Rs.4200 and taking into account the same the pay was calculated as Rs.17,740 against the claim of the applicant for Rs.18,280. The last pay was worked based on service book details which are authentic. Due to technical issues the pay of the applicant in 2006 was wrongly fixed as Rs.16,710 instead of Rs.16,220 w.e.f 1.7.2006.

This has resulted in enhanced pay during the last few months as pointed out by the applicant. The basic pay of Rs.17,740 was thoroughly checked with the service record and accordingly shown in the PPO. The over payment made is Rs.22,885 and would be recovered in due course.

6. Heard the learned counsel and perused the documents placed on record. The learned counsel for the applicant submitted that the rule to fix pension on the last pay drawn has to be followed. The learned counsel for the respondents was fair in submitting that there was an error in working out the pay of the applicant and the correction of the same has led to decrease of pension.

7(A) Pension is drawn based on the last pay drawn as per 6th CPC recommendations. There is no dispute in this regard. However, the last pay drawn should be the correct figure for working out pension is the argument of the respondents. The respondents have been fair enough to admit their mistake that in the year 2006, applicant pay was wrongly fixed as Rs.16,710 instead of Rs 16,220 w.e.f 1.7.2006. This mistake led to higher pay being drawn in the last few months before retirement. The error occurred due to technical glitches and transfer of ministerial staff. The actual pay of the applicant after due verification of the service book is Rs.17,740. Accordingly pension has been arrived at.

(B) However, Rule 1023 of Indian Railway Accounts Code Part -1 states that the check of the service book should not go into the distant past and at the most confine itself to a maximum of 24 months preceding retirement. Indian Railway Code is statutory in nature. Respondents need to follow the rules laid down by them. In the present case, the mistake occurred in 2006 and the

applicant retired in 2009. The period of review went beyond 24 months which is against the rule quoted. The case is fully covered by the verdict of this Tribunal in OA 1193/2015. Besides, as per Honourable Supreme court observation in *State of Punjab & Others Vs. Rafiq Masih (White Washer) & Others* reported in **2015 (4) SCC 334**, no recovery can be made from the pensionary benefits for any excess payments made. However, the respondent organisation being a Public Institution of great repute, should not suffer losses because of inefficiency of those responsible for the error in allowing the higher pay. The respondents have a specialised accounts wing which is endowed with the responsibility of ensuring accuracy and regulating pay. There are many mandatory periodic checks and inspections which are to be undertaken so that there is no loss to the ex-chequer. Despite the well laid systems, mistakes being committed would imply that the men who run the systems are to be found fault with. The mistake is costly since it has caused an enhanced recurring expenditure on the public exchequer to the extent of increased pay allowed. Therefore, it is time, that the respondents should consider acting against those who were responsible for the mistake and recover the loss as per the relevant rules and regulations. The OA succeeds and hence is allowed.

(C) The respondents are therefore directed to consider as under:

- i) To refix the pension based on the last pay drawn of Rs.18,280/- w.e.f 1.10.2009 and pay arrears of pension consequent to re-fixing of the pension to the applicant.

- ii) It is open to the respondents to proceed against those responsible for the mistake which led to enhanced pension to be paid and recover the loss permissible as per relevant rules.
- iii) Time calendared to implement (i) above is 3 months from the date of receipt of this order.
- iv) No order to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 21st day of December, 2018

evr