

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

Original Application No. 21/476/2018

Date of Order: 05.02.2019

Between:

T. Venkat, S/o. late T. Jayaram Naidu (Group C Employee),
Aged about 57 years, Occ: E & RS/PRS/SC,
Office of Sr. DCM/ Secunderabad Division,
SC Railway, Secunderabad,
R/o. H. No. 30/167/217/1, II Floor,
Chandragiri Colony, Sri Chakra Residency,
Safilguda, Neredmet RK PO, Secunderabad,
Telangana – 500 056.

... Applicant

And

1. Union of India, Rep. by the General Manager,
South Central Railway, Rail Nilayam, III Floor,
Secunderabad – 500 071.
2. The Senior Divisional Personnel Officer,
South Central Railway, Secunderabad Division,
Sanchalan Bhavan, Secunderabad – 500 071.
3. The Sr. Divisional Financial Manager,
Secunderabad Division, Sanchalan Bhavan,
S.C. Railway, Secunderabad – 500 071.
4. The Branch Manager,
Andhra Bank Maredpalli Branch,
East Marredpally, Secunderabad.
5. The Manager
Andhra Bank,
Centralized Pension Processing Cell,
II Floor, Andhra Bank Building, Koti, Hyderabad.

... Respondents

Counsel for the Applicant	...	Mr. Mohd. Osman
Counsel for the Respondents	...	Mr.T. Hanumantha Reddy, SC for Rlys

CORAM:

<i>Hon'ble Mr. B.V. Sudhakar</i>	...	<i>Member (Admn.)</i>
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ORAL ORDER
{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. This is a case wherein the applicant is challenging recovery of DR paid to him by the respondents to the extent of Rs.5,39,449/-.

3. Brief facts of the case are that the applicant who was working in the Commercial Department of Indian Railways was sent on deputation to CRIS (Centre for Railway Information Systems) on 20.04.2007. The applicant later tendered technical resignation from the Railways and was absorbed in CRIS on 22.11.2010. The applicants retirement benefits were paid vide PPO dt. 24.09.2012 wherein it was mentioned that he would be eligible for DR from time to time. After more than 6 years, the banker was addressed by the respondents to recover DR drawn from 23.11.2010 to 14.11.2016. Against the same, the applicant made representation on 06.03.2017 and 01.06.2017. Despite the representations, the respondents resorted to recovery of the applicant's settlement dues.

4. Contentions of the applicant are that he did not misguide or misrepresent to the respondents for seeking excess DR from them. The action of the respondents is against the judgment of the Hon'ble Supreme Court in the State of Punjab & Others Vs. Rafiq Masih (White Washer) Etc. (Civil Appeal No. 11727 of 2014). Even the applicant was not put on notice regarding the proposed recovery. That being so, they started effecting recovery. The applicant has also quoted the observations of the Hon'ble Supreme Court in Sahib Ram Vs. State of Haryana, reported in JT 1995 (1) SC 24, Shyam Babu Verma Vs. Union of India, reported in JT 1994(1) 574 and Union of India Vs. M. Bhaskar, reported in

1996(2) SLJ 25 (SC). The applicant is a Group C employee and that the proposed recovery has been made for a period in excess of five years, before the order of recovery is issued.

5. Heard learned counsel for both sides. Learned counsel for the applicant submits that this is a fully covered case. Learned counsel for the respondents stated that he needs time for filing reply.

6. The applicant on technical resignation joined CRIS. The respondents contend that the DR has been paid to the applicant in excess of his eligibility. However, they commenced recovery without giving any notice to the applicant. This is against the principles of natural justice. The applicant has also represented to the respondents citing the judgment of the Hon'ble Supreme Court in Rafiq Masih case wherein it is clearly laid down that recovery of excess payment from employees belonging to Class III and Class IV service (Group C or Group D service) is impermissible under law. The applicant has also quoted the judgments of the Hon'ble Supreme Court in three other cases cited supra, wherein it was held that excess payments made to employees due to wrong fixation should not be recovered. The Railway Board issued RBE No. 72/2016, dt. 22.06.2016, circulated vide Serial Circular No. 75/2016, dt. 19.07.2016, wherein specific directions were issued stating that recovery of excess payments made is not permissible from Group C and Group D staff, on their retirement.

7(I) In view of the above, it is clear that recovery made is against the observations of the Hon'ble Supreme Court and the Serial Circular of the respondents cited above. This Tribunal in OA No. 454/2018 vide order dt. 15.11.018 has quashed similar recovery proceedings. Therefore, as the case is fully covered, the respondents are directed to consider refund of the amount

recovered so far from the applicant and stop further recoveries based on the judgments of the Hon'ble Supreme Court and the Railway Board orders cited supra, within a period of 60 days from the date of receipt of this order.

II. With the above directions, the OA is disposed of. There shall be no order as to costs.

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

Dated, the 5th day of February, 2019

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