

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/00316/2017

Dated Tuesday the 8th day of January Two Thousand Nineteen

CORAM: HON'BLE MR. R. RAMANUJAM, Member (A)

G.Vijayakumar,
204, Viswa Illam,
16th Street,
Ex-Servicemen Colony,
Tiruchy 620004.

....Applicant

By Advocate M/s. R. Pandian

Vs

Union of India rep by,
1.The General Manager,
Southern Railway,
Park Town, Chennai 600003.

2.Workshop Personnel Officer,
Central Workshop,
Southern Railway,
Ponmalai, Tiruchy 620004.

3.Deputy Financial Advisor & Chief Accounts Officer,
Central Workshop,
Southern Railway,
Ponmalai, Tiruchy 620004.

....Respondents

By Advocate Ms. R. Sathyabama

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))

Heard. The applicant has filed this OA seeking the following reliefs :

"To call for all the records relating to the working out of retiral benefits and the recovery of over payments and to quash the impugned order in No. PF.2204/WAS/Sett dt. 27.06.2016 issued by the 2nd respondent. Consequently to direct the respondents:-

1. To refund an amount of Rs.1,35,753/- (Rupees One Lakh thirty five thousand seven hundred and fifty three only) deducted unauthorisedly with applicable interest and
2. To pass such other order/orders as this Hon'ble Tribunal may seem fit and proper and thus to render justice."

2. The grievance of the applicant is that an amount of Rs. 1,35,753/- was deducted from the terminal benefits of the applicant who retired from service on 31.05.2015. The recovery was allegedly on the ground that when he was promoted as Technician Grade-II C&W Fitter w.e.f. 30.05.1997, his pay was fixed as Rs. 4000/- in the scale of Rs. 4000-6000 and the next annual increment of Rs. 4300/- (instead of Rs. 4100/-) was allowed erroneously w.e.f. 01.05.1998. Further pay fixations thereafter were based on such erroneous fixation. The applicant is entitled to the benefit of the law laid down by the Hon'ble Apex Court in *State of Punjab & Haryana Vs. Rafiq Masih (White Washer)* and the OM of DoPT dt. 02.03.2016 issued in acceptance thereof. However, the respondents acted without reference to the same and effected the deduction, aggrieved by which the applicant has filed this OA.

3. Learned counsel for the respondents would submit that the overpayment *per se* on account of erroneous pay fixation is not disputed. As excess payment from public exchequer was tax payers' money and belonged neither to the officers who were responsible for overpayment nor the recipient, the authorities were duty bound to take corrective measures. The applicant had at the relevant time provided an undertaking that any overpayment on account of erroneous pay fixation would be refunded by the applicant, it is contended.

4. I have considered the pleadings as also the submission made by the rival counsel. It is not in dispute that the applicant was a temporary Khalasi who was promoted as Technician Grade-II subsequently. At the time of retirement, the applicant was still a Technician Grade-II which was admittedly a Group-C post. It is also not in dispute that the overpayment had occurred for a period in excess of 5 years right from 1998. Accordingly, it must be held that his case is covered by the law laid down by the Hon'ble Apex Court in ***Rafiq Masih (White Washer)*** and, therefore, ought to have been processed as per the instructions contained in OM dt. 02.03.2016 of the DoPT issued in acceptance thereof. Since this has not been, the impugned order dt. 27.06.2016 rejecting the representation of the applicant is set aside. The respondents are directed to process the case of the applicant as per the law laid down in ***Rafiq Masih (White Washer)*** and the

OM of DoPT dated 02.03.2016 and pass a reasoned and speaking order within a period of two months from the date of receipt of a copy of this order.

5. OA is disposed of with the above directions.

(R. Ramanujam)
Member(A)
08.01.2019

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