

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH
CIRCUIT SITTING AT RANCHI
OA/051/00826/18
With
MA/051/00437/18**

Date of Order: 07.01.2019

C O R A M

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

Phatik Chandra Ojha, aged about 65 years, S/o Late Rishikesh Ojha, resident of Village- Dumdumi, PO- Dumdumi, PS- Purulia, District-Purulia (W.B.), Pin No. 723147

..... Applicant.

By Advocate: - Mr. S.S.P. Kushwaha

-Versus-

1. Bokaro Steel Plant, Unit of the Steel Authority of India (SAIL), through its Managing Director having its head office at main Administrative Building Bokaro Steel City, PO & PS- Bokaro, Steel City, Dist- Bokaro, Pin No. - 827003, Jharkhand.
2. The Managing Director, Bokaro Steel Plant, Main Administrative Building, Bokaro Steel City, Dist- Bokaro, Pin No. 827003, Jharkhand.
3. The Chief Personnel Manager, Bokaro Steel Plant, Main Administrative Building, Bokaro Steel City, PO & PS – Bokaro Steel City, Dist.- Bokaro, Pin No. 827003, Jharkhand.

..... Respondents.

- By Advocate: - Mr. Prabhat Kumar

**O R D E R
[ORAL]**

Per J.V. Bhairavia, J.M.:- The learned counsel for the applicant submits that vide impugned order dated 19.11.2014 (Annexure A/7) the respondents have issued an order for recovery of certain amount, i.e. Rs. 19,779.44 paisa that too after 12 years of his retirement. He further submitted that the said recovery order cannot be passed after so much

delay and he is a Group 'D' employee and he had never misrepresented before the authorities concerned during his service.

2. However, Shri Prabhat Kumar, learned Standing Counsel for the respondents Railways appears and submitted that he is waiting for copy of affidavit/reply and the same will be filed shortly. He further stated that he has to verify under which circumstances the impugned order has been passed by the respondents. However, he has fairly submitted that as per direction issued by the Hon'ble High Court in WP(S) No. 5939/2010 the claim of the applicant for payment of arrear amount was considered by the respondents and on scrutiny of the record it was found that in fact an amount of Rs. 19,779.44 paisa was paid excess to the applicant and therefore, by way of speaking order it was directed to recover the said amount from the applicant. The applicant had approached the Hon'ble High Court vide WP(S) No. 3796 of 2015 against the said order dated 19.11.2014. However, the Hon'ble High Court vide its decision dated 25.07.2016 directed the applicant to file an application before the CAT. Accordingly, the applicant has approached this Tribunal by way of OA/051/00191/2017. However, the said OA was disposed of as withdrawn at the admission stage itself vide order dated 19.12.2017 by keeping the limitation point open (Annexure A/9 refers). Therefore, it is not open for the applicant to re-agitate his grievance by way of present OA.

3. Heard the parties and perused the materials on record.

4. The applicant has preferred an miscellaneous application for condonation of delay in challenging the legality of the speaking order passed by the respondents for recovery of certain amount.

5. Considering the reasons stated in the said MA and the directions issued by the Hon'ble High Court, in the interest of justice, we allow the MA for condonation of delay.

6. So far as the prayer sought in the present OA is concerned, we notice that the earlier OA was withdrawn because neither the impugned order was challenged nor the said order was mentioned in the previous OA. Therefore, the OA was disposed of on technical ground as withdrawn while granting liberty. It is noticed that the claim of the applicant for grant of the arrears has been considered by the respondents vide the impugned order and on scrutiny it was found that at the time of final settlement the applicant, i.e. Pratik Chandra Ojha opted for voluntary retirement from the services of the company, which was accepted as per the Scheme in-vogue and consequently the separation order VRS/99/0298, dated 23.08.1999 was issued for his release w.e.f. 31.08.1999. As per the calculation sheet received from the respective department an amount of Rs. 19,799.14/- is to be recovered from the applicant, as a result of non-accounting of order dated 18.09.96 imposing penalty of reduction of basic pay of Rs. 2140/-, i.e. minimum of the grade of Rs. 2140-2791 (S-2) w.e.f. 18.09.96 and upon consideration of the aspect of wage revision. Accordingly, GM(P) vide his speaking order dated to recover Rs. 19,779.44/- from the applicant. The said order of recovery cannot be allowed to sustain in the light of law laid down

by the Hon'ble Supreme Court in the matter of State of Punjab Vs. Rafiq Masih (White Washer) [AIR 2015 SC 1267]. It is also noticed that the respondents, in stead of looking into the issue of claim of arrears of the applicant, came out with their claim about excess payment of Rs. 19,779.44/- which was paid to the applicant in the year 1996 and after 20 years vide impugned order the respondents have issued the direction for recovery of the said amount. We have also noticed that there is no misrepresentation on the part of the applicant nor he had played any role for such so called excess payment. Under the circumstances, the impugned decision cannot be allowed to sustain in the eyes of law. Accordingly, the impugned order dated 19.11.2014 (Annexure A/7) is quashed and set aside. The OA is disposed of accordingly. No order as to costs.

**[Dinesh Sharma]
Administrative Member
Sr.k.**

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