

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

Original Application No.20/1178/2018

Date of Order: 25.06.2019

Between:

T.V. Giri Prasad Rao, S/o. Satyanarayana,
Aged about 66 years, Retired Senior Section Engineer,
South Central Railway, Renigunta, Gr.B,
Chittoor District, Andhra Pradesh,
R/o. H. No. 41-13-23, Palaparthivari Street,
Krishnalanka, Vijayawada, Krishna District.

... Applicant

And

1. Union of India, Rep. by its General Manager,
Central Organization, Railway Electrification,
Allahabad, UP.
2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
4. The Chief Manager,
State Bank of India,
Centralized Pension Processing Centre,
Amaravati Circle, Methodist Complex,
1st Floor, Abids, Hyderabad – 500 001
5. The Branch Manager,
State Bank of India (20713),
SC Railway Branch,
DRM Office Compound,
Vijayawada, Andhra Pradesh.

... Respondents

Counsel for the Applicant ... Mr. D. Subbaramaiah

Counsel for the Respondents ... Mr. V. Vinod Kumar, SC for Rlys

CORAM:

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

ORAL ORDER

2. OA is filed in regard to the adjustment of pension amount towards commutation of pension granted to the applicant.

3. Brief facts of the case, as averred in the OA, are that the applicant retired from service as a Group C employee on 30.06.2010. Recovery of Rs.5000/- per month from his pension was effected from July to September 2017 and the said amount was enhanced to Rs.11,682/- from October 2017 to September 2018 and an amount of Rs.2935/- in October 2018. Apart from the said amount, an amount of Rs.26,921/- was also recovered from his pension arrears. Thus, a total amount of Rs.1,82,105/- was recovered from his pension. The excess pension was made due to the mistake of the respondents and that the applicant is in no way concerned with the same. Applicant has neither misrepresented nor committed a fraud to obtain the benefit in question. As it is, he is getting meagre pension and such huge recovery is driving him to bankruptcy. He has cited the judgments of the Hon'ble Supreme Court in support of his claim.

4. Applicant has contended that he was also not given any notice before making the recovery and that too, after 7 years of pension being granted, the impugned recovery was made. He is a senior citizen and that, for the fault of the respondents, he should not be penalised. He seeks a direction to refund the amount of Rs.1,85,040/- recovered from his pension, with interest.

5. The respondents were given ample opportunity to file the reply statement, However, they did not file. Nevertheless, since the applicant is a senior citizen, this Tribunal took up matter for hearing. There was no representation for the applicant. Heard learned counsel for the respondents and perused the material placed on record.

6(I) This is an issue pertaining to payment of pension after adjusting the commuted value. In the present case, the respondents have not adjusted the commuted amount paid to the applicant, for as many as seven years. After realizing the mistake, the respondents advised the concerned banker to recover the commuted portion of pension from the pension of the applicant. The respondents through the banker have recovered an amount of Rs.1,85,040/-, as submitted by the OA. Applicant states that it was the mistake of the respondents and therefore, as per the judgment of the Hon'ble Supreme Court in State of Punjab & Rafiq Masih, the amount should not have been recovered and that whatever amount already recovered should be refunded.

II. When the case is analyzed on grounds of merits, it requires no reiteration that pensioners submit undertaking while pension is granted. In that undertaking, the deduction of commuted amount also finds place. Therefore, applicant having given an undertaking, cannot seek an exception to this rule. The commuted amount received in excess has to be adjusted. This is covered by the Hon'ble Supreme Court judgment in

High Court of Punjab & Haryana Vs. Jagdev Singh, 2016 (14) SCC 267, wherein the Hon'ble Supreme Court held as under:

"11. The principle enunciated in proposition (ii) above cannot apply to a situation such as in the present case. In the present case, the officer to whom the payment was made in the first instance was clearly placed on notice that any payment found to have been made in excess would be required to be refunded. The officer furnished an undertaking while opting for the revised pay scale. He is bound by the undertaking."

III. Nevertheless, the applicant is a senior citizen who is around 69 years, having retired on 30.06.2010. It is true that recovery of an amount of Rs.11,000/- from his pension would cause financial strain to the applicant. The amount of actual pension received being substantial, it cannot be stated that the applicant was not aware of the same. It is surprising to note that the applicant has not intimated the respondents that he is getting full pension. As per the material on record, recovery has already been made from July 2017 to October 2018. Applicant made a representation dt. 06.08.2018 for refund of the amount and the same is pending. Nevertheless, considering the financial hardship, to which the applicant would be subjected, the respondents are directed to consider his representation and to recover any further amount, if due, in instalments of minimum amount possible as per rules and regulations of the respondent organization. Pension having been commuted, the applicant need necessarily repay to the Government in the form of reduction in pension on a monthly basis, till it is restored after a period of 15 years, as per norms. Therefore, applicant cannot plead that the amount should not be recovered.

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

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

Dated, the 25th day of June, 2019

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