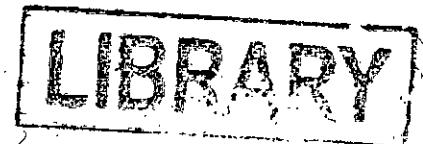


CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

No. O.A. 350/01145/2019

Date of order: 22.8.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Sri Susanta Dutta,
Son of Late Arnab Kumar Dutta,
By Occupation – working as the
Chief Office Superintendent,
Under Sr. DPO, E. Rly./SDAH Division,
Kolkata, and residing at:- 220/A,
Harbi Street,
Kolkata – 700 009.

.... Applicant

- V E R S U S -

1. Union of India,
Through the General Manager,
Eastern Railway,
17, N.S. Road,
Kolkata – 700 001.
2. The Divisional Railway Manager,
Eastern Railway,
Sealdah Division,
Sealdah,
Kolkata – 700 014.
3. The Sr. Divisional Personnel Officer,
Eastern Railway,
Sealdah Division,
Sealdah,
Kolkata – 700 014.

.... Respondents

For the Applicant : Mr. N. Roy, Counsel

For the Respondents : Mr. D. Nandi, Counsel

A handwritten signature in black ink, appearing to read "N. Roy".

O R D E R (Oral)**Per Dr. Nandita Chatterjee, Administrative Member:-**

The applicant has approached the Tribunal in the second round of litigation under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

- "(a) To issue direction upon the respondent authorities, to consider the representation, dtd. 14.08.19 for refund the money to the applicant forthwith;
- (b) To issue further direction upon the respondent authorities, to fix the fixation of pay of the applicant, where the similarly placed person, namely, Debasis Sanyal, his pay has been rightly fixed he was also medically decategorised. Here the applicant is also same similar circumstanced candidate, the applicant's fixation has been fixed rightly forthwith;
- (c) To issue further direction upon the respondent authorities, excess payment cannot be recovered from the applicant salary without any notice;
- (d) Any other order or further order or orders as your Lordships may deem fit and proper under the circumstances of the case;
- (e) To produce connected Departmental Record at the time of hearing."

2. Heard Ld. Counsel for the parties, examined documents on record.

Matter is taken up at the admission stage.

3. The submissions of the applicant, as canvassed through his Ld. Counsel, is that, the applicant was initially appointed as Clerk Grade - II on 4.9.91 and, on completion of 12 years of service, received the benefits of ACP. Thereafter, he was promoted as Goods Guard on 11.6.2004.

On 27.7.2005, the applicant was medically decategorised and was placed on the same pay and same scale w.e.f. the date of his decategorisation and was posted as OS-II in the pay scale of Rs. 5500-9000/-.

Ld. Counsel would further urge that without any notice, the authority concerned started recovering purported excess payments from his salary vide an order dated 20.6.2019 of the DPO/I/SDAH, annexed at Annexure A-8 to the O.A. Being aggrieved, the applicant represented to the authority on 12.8.2019 questioning the legality of recovery. According

hch

to the applicant, he deserves relief in terms of the ratio held in **State Of Punjab & Ors vs Rafiq Masih (White Washer) 2014 (4) SCC 334.**

Ld. Counsel for the applicant further submits that the applicant would be fairly satisfied if a direction is issued to the respondent authorities to dispose of his pending representation in a time bound manner.

4. Ld. Counsel for the respondents does not object to disposal of the same in accordance with law.

5. We are also of the considered view that no useful purpose would be served in calling for a reply in the instant matter, as because, the respondent authorities are yet to decide on the representation of the applicant.

Accordingly, without entering into the merits of the matter, and, with the consent of the parties, we hereby direct the respondent No. 3, who is the Sr. Divisional Personnel Officer, Eastern Railway, Sealdah Division, Sealdah, to examine the contents of the representation dated 12.8.2019 (Annexure A-9 to the O.A.), within a period of 12 weeks from the date of receipt of a copy of this order. The said respondent authority shall decide in accordance with law and will convey his decision in the form of a reasoned and speaking order to the applicant forthwith thereafter.

6. With these directions, the O.A. is disposed of. No costs.

h
(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

SP