

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.196 of 2013

Date of Decision: 17th July, 2019

CORAM: R.VIJAYKUMAR, MEMBER (A)
R.N. SINGH, MEMBER (J)

Shri Baij Nath Yadav, Age : 74 years,
 Retired Sr. Depot Store Keeper,
 Central Railway, Mumbai
 Residing at : A/305, Jasmine Tower,
 Vasant Vihar, Pokharan No.2, Thane (West). - *Applicant*
(By Advocate Shri Vishal Shirke)

VERSUS

1. The Union of India, Through the General Manager,
 Central Railway, Mumbai CST, Mumbai 400 001.
2. The Chief Administrative Officer (Construction),
 Central Railway, Mumbai CST, Mumbai 400 001. - *Respondents*
(By Advocate Shri R.R.Shetty)

ORDER (Oral)

Per : R.Vijaykumar, Member (A)

This application has been filed on
 05.02.2013 under Section 19 of the
 Administrative Tribunals Act, 1985 seeking
 the following reliefs :-

“8.a. This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the Respondents and after examining the same quash and set aside the impugned order dated 19-03-2012 with all consequential benefits.

8.b. This Hon'ble Tribunal may further be pleased to direct the Respondents to release the amounts of (i) DCRG, (ii) Bonus for the years 1992-93 to 1995-96, (iii) TA amounting to Rs.3376/-, (iv) Security Deposit of Rs.1000/- and (v) Arrears of pay amounting to Rs.3501/- alongwith interest @ 12% per annum on the amount of DCRG w.e.f. 26.2.2004 and

on the amounts of other payments w.e.f. 1.8.1996 till realisation.

8.c. This Hon'ble Tribunal may further be pleased to direct the Respondents to pay interest @ 12% per annum on the amount of arrears of pension paid to him on 30.5.2007 for the period from 1.8.1996 to 30.5.2007.

8.d. Cost of the Applicant be provided for.

8.e. Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed.”

2. This is the fifth round of litigation of the applicant and concerns his alleged grievances that the respondents have not released the amounts of DCRG, bonus, traveling allowance, security deposit and arrears of pay and in the impugned order, they have indicated that they have paid him the following balances :-

<u>“Sr. No.</u>	<u>Particulars</u>	<u>Amount</u>
1.	Leave Salary	1,269/-
2.	NGIS	6,974/-
3.	Interest	<u>2,813/-</u>
		<u>11,056/-”</u>

Further, four items have not been paid which are as follows :

<u>“Sr. No.</u>	<u>Particulars</u>	<u>Amount</u>
1.	DCRG	Rs.43,732/- (After adjusting of pend rent of Rs.42,068/- out of total amount of Rs.85,000/-)
2.	T.A.	Rs.2,608/-
3.	PLB	Rs.7,757/-
4.	Incremental arrears	Rs.3,501/-”

3. The learned counsel for the applicant was heard at length and contends that the reduction was arbitrary and not in consonance with the rules and that he is entitled to full amount of balance with interest thereon. Further, the impugned orders referred to shortage of stock materials of 9 SV sheets amounting to Rs.83,57,502/- which were held under his custody as Senior DSK and against this shortage the amount in question has been withheld.

4. The learned counsel for the applicant was heard in this matter and he argued that if there was shortage, he should have been advised and any recovery should have fallen on the applicant based on disciplinary proceedings and any other decision process would be contrary to natural justice and the rules prescribed in this behalf.

5. In response to the notice issued, the respondents have filed their reply on 28.11.2013 stating that when this shortage of Rs.83,57,502/- was found after verification, a DO letter was written to him on 23.03.1994 which was 2 $\frac{1}{2}$ years prior to

his superannuation and for which, there had been no response. As against this loss, a negligible amount of Rs.57,598/- has come to be withheld. They state that there were several proceedings initiated against the applicant and initially, a charge-sheet was issued on 16.11.1992 which imposed on him, a penalty of reduction of grade continuing until the date of his superannuation on 31.07.1996. The applicant's challenge to this punishment was dismissed and the punishment became final. The second charge-sheet was issued in relation to the failure to undertake stock verification and for the irregular disposal of stores of value estimated at Rs.21,71,385/- and for which a penalty of 20% cut in pension for three years was imposed.

6. The respondents further referred to the provisions of Rule 15 of Railway Pension Rules and in particular to Rule 15(2) which enables the respondents to recover different varieties of dues and provides an inclusive listing of different kinds of dues that could be adjusted against the retiral benefits to be paid to the employee.

7. No rebuttal has been filed by the applicant disputing the fact of receipt of the DO letter of 1994 and contents thereof. The Pension Rules in question has also not been challenged in these proceedings and therefore, the sole question that remains is as to whether the portion of dues that have been withheld in regard to the applicant falls under the categories listed in the Pension Rules.

8. The learned counsel for the applicant and the respondents have been heard on this point and it is apparent from the rules that there are considerably broad enough and include the impugned categories of dues which enables and sanction the respondents to recover all such dues from the applicant.

9. In these circumstances, the OA is devoid of any merits and is liable to be dismissed. Accordingly, the OA stands dismissed. However, no costs.

(R.N. Singh)
Member (Judicial)

(R.Vijaykumar)
Member (Administrative)

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