

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

Original Application No.20/885/2019

Date of Order: 03.10.2019

Between:

Sri Venda Nageswara Rao,
S/o. late Venda Krishna Murthy,
Aged about 63 years, Residing at Door No. 37-12-64/2,
NGO's Colony, Plot No. 115,
Near Murali Nagar, Industrial Estate Post,
Visakhapatnam – 530 007.

... Applicant

And

1. The Union of India, Rep. by the Secretary,
Ministry of Personnel and Public Grievances,
North Block, New Delhi.
2. Union of India, Rep. by its Secretary,
Ministry of Railways, Central Secretariat,
New Delhi.
3. Railway Board, Rep. by its Director,
Rail Bhavan, New Delhi.
4. The General Manager,
East Coast Railway, Chandrasekharapur,
Bhubaneswar – 751023.
5. Divisional Railway Manager,
East Coast Railway, Dondaparthi,
Visakhapatnam – 530 004.
6. The Senior Divisional Personnel Officer,
East Coast Railway, Dondaparthi,
Visakhapatnam – 530 004.
7. The Chief Personnel Officer,
East Coast Railway, Chandrasekharapur,
Bhubaneswar – 751023.

... Respondents

Counsel for the Applicant ... Mr.P. Lakshmana Rao

Counsel for the Respondents ... Mr. S.M. Patnaik, SC for Rlys

CORAM:

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

ORAL ORDER
{As per B.V. Sudhakar, Member (Admn.)}

2. The OA is filed against the action of the respondents in withholding DCRG amount of Rs.8,24,670/- due to the applicant.

3. Brief facts of the case are that the applicant retired from the respondents organization on 31.07.2016. After retirement, applicant made several requests on 12.10.2016, 9.11.2016, 29.12.2016 to release DCRG amount due to him. As per the Payment of Gratuity Act, 1972, gratuity has to be released within 30 days from the date it becomes payable i.e. by 30.08.2016. However, respondent have abruptly forfeited the DCRG without giving any notice to the applicant and also against the Rules.

4. The contention of the applicant is that disciplinary rules are not applicable to him after retirement. Only Pension Rules are to be applied to him. As per Payment of Gratuity Act, pension has to be released within 30 days of his retirement, which was not followed by the respondents. Besides, no notice was issued before effecting the recovery. Rule 87 of the Railway Services (Pension) Rules, 1993 has not been followed. Action of the respondents is against the observations of the Hon'ble Supreme Court in State of Punjab Vs. Rafiq Masih.

5. Heard both sides counsel and perused the pleadings on record.

6. Learned counsel for the applicant submitted that the representation made by the applicant on 12.10.2016, 09.11.2016, 29.12.2016, have not

been disposed till date. The claim of the applicant is that the judgment of the Hon'ble Supreme Court in Rafiq Masiq case is in support of his cause. Besides, it is illegal to recover DCRG without issuing notice. Applicant also claims that disciplinary rules cannot be applied to him after retirement and that only Pension Rules are to be invoked in respect of officials who retire from service. Learned counsel for the respondents submitted that there are grounds for withholding the DCRG and that the same would be furnished when the reply statement is filed. However, learned counsel for the applicant prayed for a direction for disposal of the representations submitted by the applicant so that based on the outcome, applicant can decide further course of action to seek relief, if required. This submission is fair, in the sense, representations of the applicant may have to be disposed of before this Tribunal can take any view in the matter.

7. Hence, keeping the above submissions in view, respondents are directed to dispose of the representations referred to supra, submitted by the applicant, by issuing a speaking and reasoned order, within a period of 8 weeks from the date of receipt of this order. Accordingly, OA is disposed of, at the admission stage itself. There shall be no order as to costs.

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

Dated, the 3rd day of October, 2019

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