

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

**Original Application No. 020/0472/2019
Date of Order : 17.07.2019**

Between :

M.Altaf Hussain, S/o M.Ahmed Hussain, aged 52 years,
Occ : Office Superintendent (Group 'C'),
O/o The Divisional Mechanical Engineer (Power),
South Central Railway, Guntakal Division, Guntakal,
R/o No.14/341, Khajapura, Adoni, Kurnool Dist.- 518 301. ... Applicant.

And

1. Union of India, rep. by
The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
2. The Divisional Railway Manager,
South Central Railway, Guntakal Division,
Guntakal.
3. The Senior Divisional Personnel Officer,
South Central Railway, Guntakal Division,
Guntakal.
4. The Senior Divisional Financial Manager,
South Central Railway, Guntakal Division,
Guntakal. ... Respondents.

Counsel for the Applicant ... Mr.K.R.K.V.Prasad, Advocate
Counsel for the Respondents ... Mrs.A.P.Lakshmi, S.C.for Rlys.

CORAM:

Hon'ble Mr.A.K.Patnaik ... ***Member (Judl.)***
Hon'ble Mr.B.V.Sudhakar ... ***Member (Admn.)***

ORAL ORDER

Mr.A.K.Patnaik, Judicial Member

Heard Mr.K.R.K.V.Prasad, learned counsel for the applicant and Mrs.A.P.Lakshmi, learned standing counsel for the respondents.

2. This OA has been filed under Section 19 of the Administrative Tribunals Act with the following prayer :

"For the reasons submitted above, it is prayed that this Hon'ble Tribunal may be pleased to call for the records pertaining to letter No.SCR/P-GTL/354/DSL/Misc., dated 02.11.2017 along with other connected records and declare the action of the respondents in recovering an amount of Rs.79,608/- from the arrears paid vide Memorandum dated 11.04.2016 and justifying such recovery vide the said letter dated 02.11.2017, which is in violation of the earlier order of this Hon'ble Tribunal in OA.No.1277 of 2012, dated 04.11.2013, is illegal, arbitrary, unjust and accordingly set aside and quash the letter dated 02.11.2017 to the extent of the mention that the recovery is in order along with the connected record relating to such recovery as excess payment;

(ii) to direct the respondents-railways to refund the said amount of Rs.79,608/- and pay interest @ 9% p.a. from 11.04.2016 till the date the payment is made to the applicant and grant all consequential benefits and pass such other order or orders as deemed fit and proper in the facts and circumstances of the case and in the interest of justice."

3. Learned counsel for the applicant by drawing our attention to Annexure-A-3 in which this Bench of the Tribunal has disposed of OA.1277/2012 on 04.11.2013 submitted that the said order has reached its finality. Therefore, the respondents are duty bound to carryout the order in true spirit. He also brought to our notice the representation preferred by the applicant on 25.09.2017 for getting the relief as granted to him in the order dated 04.11.2013 in OA.1277/2012.

4. On the other hand, learned counsel for the respondents vehemently opposed the submissions made by the applicant and tried to justify the action by submitting that the undertaking given by the applicant, at Annexure-R-1, dated 05.08.2014 goes on to prove that the applicant himself has stated that an amount of Rs.79,608/- which was paid to him in excess may be recovered. Learned counsel for the respondents further submitted that the undertaking was given after the order passed by this Tribunal, therefore, the respondents have acted according to the order passed by the Tribunal. Therefore, no illegality has been committed by the respondents in not disbursing the said amount.

5. After considering the submissions made by the respective counsels appearing for both the parties, we are of the considered view that when the order was passed by this Tribunal in OA.1277/2012, which has already attained its finality, the respondents should act upon the same, notwithstanding any type of undertaking given by the applicant after the order was passed. The respondents were well within the reach to approach the higher forum against the order dated 04.11.2013 in OA.1277/2012 reversed / set aside and having not done so, they have lost that opportunity. Therefore, we are of the opinion that the respondents should immediately implement the order in OA.1277/2012 dated 04.11.2013 as prayed for by the applicant in Annexure A-2 and take steps as already directed by this Tribunal as early as possible, preferably within six weeks from today.

6. With the aforesaid observation / direction, the OA is disposed of.

There shall be no order as to costs.

7. Copy of the order be handed over to learned counsel appearing on behalf of the parties.

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

(A.K.PATNAIK)
MEMMBER (JUDL.)

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