

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/00698/2020

HYDERABAD, this the 1st day of December, 2020

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member



K.Kaladhar S/o K.Viswanadham,
Retired Chief Booking Supervisor, (SCR/TPTY),
(Gr.C), aged 65 years, D.No.6/72-1, New No.16/48,
5th Floor, Balaji Towers, Dhanalakshmi Nagar,
Avilala Panchayath, TIRUPATI-517 507,
Chittoor District (AP).

... Applicant

(By Advocate: Mrs.S.Anuradha)

Vs.

1. Union of India Rep By General Manager,
South Central Railway, Rail Nilayam, SECUNDERABAD.
2. The Financial Advisor & Chief Accounts Officer,
South Central Railway, Rail Nilayam, SECUNDERABAD.
3. The Chief Personnel Officer & *ex officio* Chairman,
Pension Adalath, South Central Railway,
Rail Nilayam, SECUNDERABAD.
4. The Divisional Railway Manager,
South Central Railway, Guntakal Division,
GUNTAKAL-515 801, Anantapur District (AP).
5. The Senior Divisional Finance Manager,
South Central Railway, Guntakal Division,
GUNTAKAL-515 801, Anantapur District (AP).
6. Senior Divisional Personnel Officer,
South Central Railway, Guntakal Division,
GUNTAKAL-515 801,
Anantapur District (AP).
7. The Manager, State Bank of India,
Central Pensions Processing Centre (CPPC),
1-7-387, GNR Heights, 1st Floor,
Mushirabad Main Road, Opp. Gurunanak
Hospital, HYDERABAD-500020. ... Respondents

(By Advocate: Mr.S.M.Patnaik, SC for Railways)

ORDER (ORAL)**Hon'ble Mr. B.V. Sudhakar, Admn. Member**Through Video Conferencing:

2. The OA is filed in regard to the recovery being made from the pension of the applicant.
3. Brief facts are that the applicant joined the respondents organisation as Commercial Clerk in Dec. 1979 and retired on 30.11.2014. After 5 years of his retirement applicant claims that the respondents are recovering an amount of Rs.4856 per month from the pension of the applicant. Aggrieved over the same, the OA has been filed.
4. The contentions of the applicant are that the recovery has been ordered without notice and that his case is covered by Rafiq Masih case.
5. Ld. Counsel for the respondents has filed written instructions dated 6.11.2020 received from the respondents wherein it is submitted that due a disciplinary case pending against the applicant, which was finalised on 21.2.2015 after his retirement on 30.11.2014, applicant was allowed to commute pension from 22.2.2015. However, instead of paying residual pension, applicant was paid full pension up to 31.12.2019 and on noticing the error the residual pension was being paid correctly from Jan 2020. Further, it was also mentioned that the banker is making the recovery and that the respondents have not authorised recovery.
6. Heard both the counsel and perused the pleadings on record.

7. The issue is about recovery from the pension of the applicant after 5 years of his retirement. As seen from the facts, the applicant has commuted his pension on 22.2.2015 and therefore, he is eligible for residual pension to be paid from this date. Instead, applicant received full pension from 22.2.2015 till 31.12.2019, which is incorrect. Applicant, as we understand from the Learned Counsel for the respondents has retired as Chief Booking Supervisor, and therefore, he would be aware as to amount he has to receive after commutation. When applicant was receiving excess pension, it was expected of him to at least inform the respondents as a responsible pensioner about the excess being received by him for as long a period as 4 years 10 months. The excess amount received is Rs.2,86,504/-. It is a clear case of unjust enrichment. Even while receiving commutation, it is made clear that the residual pension would be paid for 15 years and thereafter, restored. Hence, the action of the respondents in ordering recovery is in order. Learned Counsel for the respondents has submitted that Rafiq Masih case is not applicable to the case, since the applicant has signed the relevant documents in respect of Commutation of pension where he has agreed to receive only the residual pension. We agree with his contention. However, the Ld. Counsel for the applicant has pleaded that the actual amount being recovered is Rs.17,689/- and that already for 11 months the recovery at the rate cited per month, has been effected and she further pleaded that since the applicant is not maintaining good health, the recovery amount be reduced to Rs.5000/- per month. In response, the Learned Counsel for the respondents submitted that it is the banker i.e. respondent No.7, who is making the recovery and therefore, the said respondent has to be ordered.

This is not a valid contention since the banker (R-7) is an agent of the respondents and hence, has to abide by the instructions of the Principal i.e. respondents.

In view of the above, we are of the view that the recovery ordered is proper. However, in view of the poor health condition of the applicant, as submitted by the Ld. applicant counsel, we direct the Competent authority among the respondents 1 to 6, to consider directing the R-7 to recover a sum of Rs.5000 per month from the pension of the applicant, till the balance of the excess amount paid is fully recovered.

With the above direction, the OA is disposed of with no order as to costs.

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

(ASHISH KALIA)
MEMBER(JUDL.)

/evr/