

Court No. - 39

Case :- WRIT - A No. - 9470 of 2022

Petitioner :- Dharmesh Kumar

Respondent :- Union Of India And 5 Others

Counsel for Petitioner :- Radha Kant Singh

Counsel for Respondent :- A.S.G.I., Shesh Mani Misra

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Shiv Shanker Prasad, J.

1. Heard Shri Radha Kant Singh, learned counsel for the petitioner and Shri Shesh Mani Misra, learned counsel for the Union of India.

2. Present writ petition is directed against the order passed by the Central Administrative Tribunal, Allahabad Bench, Allahabad dated 24.01.2018 and the consequential order passed by railway authorities providing for deduction of Rs. 10,000/- per month from the salary payment being paid to the present petitioner. Alternatively, it has been submitted, even if the order passed by the Tribunal is to be sustained, the respondents are entitled to deduct Rs. 3,95,112/- only. That deduction was to be made in 40 months. That period has long got over. Yet, the respondents/railway authorities continue to make deduction @ Rs. 10,000/- per month from the salary payments of the petitioner.

3. Having heard learned counsel for the parties and having perused the record, we find no good ground to interfere with the order of the Tribunal, insofar as it provides for recovery of excess money paid to the petitioner by way of terminal dues arising from the death of his father, Shri Om Prakash who was also a railway employee. Perusal of the order of the Tribunal reveals that the said

Om Prakash died on 5.11.2015. On the date of his death, he was survived by his second wife, Smt. Usha/respondent no. 6 and two sons namely the present petitioner and Awadhesh Kumar. Not disclosing the entitlement to succession of Smt. Usha, the present petitioner and his brother obtained payment of terminal dues. At the same time, the Railways granted compassionate appointment to the petitioner. He is presently a railway employee. Since the petitioner and his brother obtained excess payment to which they were not entitled, no error has been committed by the Tribunal in providing for deduction. Consequently no error exists in the order passed by the railway authority on 4.2.2020 to give effect to such an order.

4. It is in such facts that the Tribunal passed the impugned order providing for proportionate refund of excess payment made to the petitioner and his brother by making appropriate deduction from the monthly salary payment due to the petitioner such that a total deduction Rs. 3,95,112/- has been directed to be made. Consequently, under the order dated 4.2.2020, the railway authority has provided for monthly deduction of Rs. 10,000/- per month from the salary payment of next 39 months and also deduction of Rs. 5112/- from the 40th salary payment due to the petitioner. It is the petitioner's case that such deduction commenced from the month of April, 2020. Thus, as on date, amount in excess of Rs. 4,50,000/- is disclosed to have been deducted against the recoverable amount Rs. 3,95,112/-

5. As to alleged excess deductions, we consider it proper to direct the respondent no. 3 to revisit the issue and pass a fresh order to verify the exact amount deducted against the order dated 4.2.2020 and thereafter pass further order with respect to refund of any

excess recovery and to discontinue the deductions made from the salary of the petitioner in excess of Rs. 3,95,112/-. Such exercise may be completed within a period of one month from today.

7. With the aforesaid observations/directions, this writ petition stands **disposed of**.

Order Date :- 12.12.2023

SA

(Shiv Shanker Prasad, J.) (S.D. Singh, J.)