

HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.43760 of 2018

ORDER: *(per Hon'ble Sri Justice Sanjay Kumar)*

The Union of India and its officials in the South Central Railway filed this Writ Petition aggrieved by the order dated 19.6.2018 passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, in OA/020/977/2017. The said O.A. was filed by the respondent/applicant assailing the action of the authorities in recovering the over payment made to him and seeking a direction to them to refund the same along with interest.

By the order under challenge, the Tribunal took note of the fact that the respondent/applicant was appointed as a Tracer, a Group-C post, and retired from the service of the South Central Railway as a Senior Section Engineer, Electrical, at Vijayawada, on 30.6.2017 upon attaining the age of superannuation.

It is not in dispute that the petitioner/applicant retired from service in a Group-C post. It appears that he was granted financial upgradation under the MACP scheme floated by the South Central Railway. It was only at the stage of his terminal benefits being released that the South Central Railway realised that excess payment has been made to him in that regard. The South Central Railway accordingly deducted Rs.5,41,331/-. As a sum of Rs.68,000/- out of the deducted amount was adjusted against the

Railway Employees Liberalized Health Scheme, the actual recovery effected would aggregate to Rs.4,73,331/-. Aggrieved by this recovery, the respondent/applicant approached the Tribunal.

Applying the law laid down by the Supreme Court in State of Punjab and Others Vs. Rafiq Masih (White Washer)¹, the Tribunal held the recovery to be illegal and unsustainable and accordingly directed the authorities to refund the amount deducted out of the terminal benefits payable to the respondent/applicant. Aggrieved by the said directions, the present Writ Petition was preferred by the authorities.

Smt. Chintalapudi Lakshmi Kumari, learned counsel for the petitioners and Sri M.Bhaskar, learned counsel for the respondent/applicant, would state that the very same issue that arises for consideration in this Writ Petition was considered by this Court in Writ Petition No.27152 of 2018 and batch which were dismissed by order dated 13.12.2018. A copy of the said order is placed on record.

For reasons alike as were stated in the aforesaid order and in terms thereof, we find that the authorities were not justified in effecting recovery of the excess payments made to the respondent/applicant, a Group-C officer, within one year of his retirement. The case therefore squarely fell within the first and second situations identified by the Supreme Court in Rafiq Masih¹

¹ (2015) 4 SCC 334

as ones' in which recoveries by the employers would be impermissible in law. The order of the Tribunal holding to this effect therefore does not brook interference.

As the recovery was already effected from the terminal benefits payable to the respondent/applicant, the petitioners shall refund the same to the respondent/applicant within four weeks from the date of receipt of a copy of this order.

The Writ Petition is accordingly disposed of with the above direction.

Pending Miscellaneous Petitions, if any, shall stand closed in the light of this final order. No order as to costs.



JUSTICE SANJAY KUMAR

JUSTICE M. GANGA RAO

17th December, 2018
DR