**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR**

**O.A. NO. /2020**

**APPLICANT** : Ramsanehi Pathak

# ***Versus***

**RESPONDENTS** : DRM Jabalpur & others

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**PLACE: JABALPUR (SUSHIL KUMAR SHARMA)**

**DATE: ADVOCATE FOR APPLICANT**

**E-MAIL-SUSHILS132@GMAIL.COM**

**CONTACT NO-7697960965**

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR**

**O.A. NO. /2020**

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**S Y N O P S I S**

That on 4/06/1961 the applicant was recruited in the respondent department (i.e. railways) and after his recruitment he was continuously working as asst. loop pilot which falls under the category of Group C (II category) and after completing the regular service of 24 years he got compulsory retired on 20/04/1985 and after his retirement the retirement claim and pension was settled by the respondents and he was continuously getting the pension according to the fixation done by the respondents.

On 26/02/2020 an information was sent by the respondents for recovering the amount of Rs 575096 due to downwards revision the whole procedure which was adopted by the respondents was ex-party without any show cause to the applicant and the amount which was paid was not on the request of the applicant entire exercise of revision or fixation if the pension was done by the respondents themselves in which the applicant has no role to play and after 34 years and at the age of 82 an order impugned was passed which was totally arbitrary and against the law of natural justice and the judgements rendered by the apex court hence this original application

**PLACE: JABALPUR (SUSHIL KUMAR SHARMA)**

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**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL JABALPUR**

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# ***Versus***

**RESPONDENTS** : DRM Jabalpur & others

**CHRONOLOGY OF EVENTS**.

**DATES & EVENTS**

|  |  |
| --- | --- |
| **DATES** | **EVENTS** |
| **04-6-1961** | THE applicant was appointed in the respondent department. |
| **20.4.1985** | After 24 years of the service the applicant was compulsory retired from the post of asst. loop pilot. |
| **Subsequently** | After retirement all the claim and pension of the applicant was fixed by the respondent and the applicant was regularly getting the pension their after |
| **26.02.2020** | The respondent without any previous notice or show cause to the applicant directly passed the order of recovery against the applicant |
| 23.4.20202 | The applicant made the representation to the respondent but till date no action was taken their for the applicant is having no other option accept to approach this honble tribunal |

**PLACE: JABALPUR (SUSHIL KUMAR SHARMA)**

**DATE: ADVOCATE FOR APPLICANT**

**E-MAIL-SUSHILS132@GMAIL.COM**

**CONTACT NO-7697960965**

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL JABALPUR**

**ORIGINAL APPLICATION NO. / 2020**

|  |  |  |  |
| --- | --- | --- | --- |
| **APPLICANT** | : |  | Ramsanehi pathak S/o late Shri Ramsanjeevan pathak, Aged 82 years, Occupation –ex asst. loop pilot, Group C  (II category) Post, R/o, Vill-Itahara PO-Berma maihar District- Maihar (M.P.) Pin- 458771 |
| **VERSUS** | | | |
| **RESPONDENTS** | : | 1.  2. | The Divisional Railway Manager, West Central Railway, Near High Court Jabalpur(M.P), District - Jabalpur, Pin-482001.  The Asst Divi. Finance Manager West Central Railway, Near High Court Jabalpur(M.P), District - Jabalpur, Pin-482001 |
|  |  | 3. | The Officer incharge Centralized Pension Processing Cell Behind Working Women Hospital Govindpura Bhopal (M.P), Pin-462023. |
|  |  | 4. | The Account Officer West Central Railway, Near High Court Jabalpur, District – Jabalpur (M.P), Pin-482001. |

**APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL ACT, 1985.**

1. **PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE:**
2. Order/Letter/Notification Number : CPPC/REVISION/10779464496
3. Date Of Order : 26/02/2020
4. Passed by : RESPONDENT 4
5. **SUBJECT MATTER IN BRIEF:** By the aforesaid impugned the respondent without afforded any opportunity of hearing and without any show cause notice to the applicant hear in directly passed the order of recovery of amount Rs. Five lakhs seventy-five thousand ninety-six (575096) from his pension. The order which has been passed is clear violation of right of natural justice even without adopting any legal or departmental procedure the order of recovery has been issued in ex- party manner.

1. **JURISDICATION OF TRIBUNAL:**

The applicants declare that the subject matter of the order against which they want to redress is within the jurisdiction of the tribunal.

1. **LIMITATION:**

The applicants further declare that the application is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985 as the order was passed in February 2020 but later on due to the Corona virus Pandemic the applicant who is the senior citizen was not able to approach this honorable tribunal because there was continuous direction from the state as well as center government for the senior citizen to be at home and also there was no transportation facility available

1. **FACTS OF THE CASE**:
   1. That, the applicant is the citizen of India, having all the fundamental and constitutional rights mentioned in PART-III of the constitution of India therefore, the applicant is entitled to invoke the Original Jurisdiction of the Hon’ble Tribunal in protection thereof.
   2. That, the applicant was recruited in West Central Railway on 04/06/1961 after his recruitment he continued his services and later on he got retired from the services in 20/04/1985 the copy of service certificate with marked as **ANNEXURE A/1**
   3. That, after retirement of the applicant the pension was calculated by the respondents and time to time revision was done by the respondents itself and under there revision the applicant was getting the pension accordingly it is pertinent to mention here that the applicant was having no role to play in the revision of pension then by the respondents he never approached and submitted in the process of pension revision neither he was ever informed regarding on what account his pension is being revised by the respondents .
   4. That, on 26/02/2020 a letter was issued by the respondent providing the information to the applicant that sum of Rs 575096 has excess been paid to him and directly without any show cause or any chance of being herd directly deducted Rs 50000 from the account of petitioner and also informed that the rest of the amount will be deducted in the installment from 01/03/2020 to 31/05/2027 the order which is passed is arbitrary without following the procedure of law the copy of impugned order dated 26/02/2020 is filed here with marked as **ANNEXURE A/2.**
   5. That, after the impugned order the applicant made the representation to the respondent indicating his grievance but no action what so ever was taken by the respondent even no response till date was given to the applicant hence the applicant has no other option except to approach this Hon’ble Tribunal for readdressed of his grievance the copy of representation is filled here with marked as **ANNEXURE A/3.**
   6. That, the order of recovery which is passed against the applicant is illegal, erroneous and is in contrary to the law and the judgments rendered by the Hon’ble apex court of the Ministry of Railway and hence the same is liable to be quashed.

In view of the fact and circumstance mentioned above the applicant has no other alternative of efficacious remedy except approach made before the Hon’ble Tribunal, this application is being made

5. **GROUND URGED:**

5.1 That, the order directing recovery of amount on the reason assigned if the impugned order/letter dated 26/02/2020 is illegal, arbitrary and erroneous and hence the same is liable to be quest.

5.2 That, before passing the impugned order there was no show cause issued by the respondent to the applicant and without giving any opportunity being herd directly passed the order behind the back of the applicant and send the information of the order the whole procedure adopted is arbitrary.

5.3 That, in the present case the applicant is challenging the order passed by respondent imposing recovery of Rs575096 against the applicant also on the ground that whatever amount was paid to the applicant was paid by the respondents on their own and there was no fraud or misrepresentation on his part hence after retirement no recovery could be made even at the time of calculation or the revision of the pension or other benefits the applicant has no role to play its totally comes under the domain of the respondents and the applicant cannot be left to suffer on the mistake done by the respondents.

5.4 That, due to the impugned order the applicant is getting monthly pension of Rs 6979 and in the present day of dearness it is very difficult for the applicant who is aged about 82 years so survive the copy of bank statement is filed here with marked as **ANNEXURE A/4.**

5.5 That, at the time when the pension of the applicant was revise there was no information given to the petitioner he never made any request or any representation for enhancement in his pension there for he cannot be left to suffer .The action of the respondent is in violation of administrative policy, service conditions and norms and therefore not tenable in the eyes of law.

5.6 that, the applicant the attended the age of 82 years and he has not made any request or misused or played and fraud in the fix acing the pension and if such a huge amount will be recovered form the applicant he will suffer a huge loss because he if getting very less pension due to this recovery.

5.7 That, the there are many of the cases in which the Hon’ble apex court has given the wardite that after the retirement amount cannot be recovered from the employee after 35 year of his retirement the order of recovery is totally illegal and arbitrary.

5.6 That, even interim exercise of passing the order of recovery was made behind the back of the applicant which is illegal against the due process of law hence liable to be set aside.

5.7 That, after perusal of the imputed order there is no details whatsoever that when the excess payment was made and in which tenure it was payed to the applicant. direct the order for recovery which is made can made hence liable be set aside.

5.8 That, the applicant reserve his rights to raise other grounds at the time of hearing and also reserve his right to file other document is occasion so arise because in the present situation he is not able to travel and collect all the documents regarding the present case.

6. **Details of the remedies exhausted:**

The applicant declares that there is no other alternative and efficacious remedy available accept to approach this Hon’ble tribunal.

7. **Matters not previously filed or pending with any other Court or tribunal etc**.: The applicants further declare that they had not previously filed any application, Writ Petition or suit regarding the matter in respect of which this application has been made, before any court of law or any other authority or any other bench of the Tribunal nor any such application, writ petition or suit is pending before any court of law.

8. **Relief(s) Sought:**

In view of the facts mentioned in Para 6 above, the applicants pray for the following relieves: -

1. The Hon’ble Tribunal may kindly be pleased to set aside the impugned order dated 26.02.2020 (Annex. A/2) passed by the respondent.
2. The Hon’ble Tribunal may kindly be pleased direct the respondent to return the recover amount with interest of 18% in the interest of justice.

(3). Any other order or direction which the Hon’ble Tribunal deems fit and proper looking to the circumstances of the case may kindly be passed.

**9. Interim order, if any, prayed for:**

The Hon’ble Tribunalmay kindly be passed to stay the operation of the impugned order dated 26/02/2020, (Annex. A/ 2 ) till pendency of the original application in the interest of justice.

**10. Particulars of the postal order in respect of application fee:**

1. India Postal Order: …………………. Date……………………………
2. Issuing P.O.
3. Amount Rs: 50/- (Rs fifty Only).
4. Name of the post officer at which payable

**11. DETAIL OF INDEX:**

An index contain particulars of the documents indicating its respective annexures is enclosed herewith separately

**12. LIST OF DOCUMENTS**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Sr. No. | Description of Document | Date of Document | Original/Copy | Number of Pages |
| 1 | Copy of service certificate | 14.7.1998 | Copy |  |
| 2 | Copy of impugned order | 26.2.2020 | Copy |  |
| 3 | Copy of representation | 23.04.2020 | Copy |  |
| 4. | Copy of bank statement | 30.07.2020 | Copy |  |

**PLACE: JABALPUR (SUSHIL KUMAR SHARMA)**

**DATE: ADVOCATE FOR APPLICANT**

**VERIFICATION**

I, Ramsanehi pathak S/o late Shri Ramsanjeevan pathak, Aged 82 years, Occupation –ex asst. loop pilot, Group C Post, R/o, Vill-Itahara PO-Berma maihar District- Maihar (M.P.) Pin- 458771 do hereby verify that contents of Para 1,4,5,6,7 and 9 are true to my personal knowledge and Para 2,3,8,10,11,12 believed to be true on legal advice and that I have not suppressed any material fact. The documents /annexure are attached with the O.A. are true copies of its original

Signed and verified on this day of August, 2020 at Jabalpur

**PLACE: JABALPUR**  **Ramsanehi pathak**

**DATE: SIGNATURE OF APPLICANT**

**Identified by Me**

**Advocate for the Applicant**

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR**

**O.A. NO. /2020**

**APPLICANT** : Ramsanehi Pathak

# ***Versus***

**RESPONDENTS** : DRM Jabalpur & others

**APPLICATION FOR URGENT HEARING AND CONSENT FOE VIDEO CONFERENCING**

1. That, applicant has been retired from the services from the post of asst. loco pilot which falls under Group C (II category) and due to the order impugned of recovery he is getting monthly pension of Rs 6979 only because of which he is suffering irreparable loss and the order impugned is totally arbitrary without following the principle of natural justice and contrary to the various judgement rendered by Hon’ble apex court event he order was passed in ex party manner if the matter would not be heard urgently the applicant would suffer irreparable loss.
2. That, I Adv Sushil Kumar Sharma hereby declare that due to the present situation I am giving my consent for hearing of this matter through video conferencing looking to the nature of the case urgent hearing of the application is very much necessary therefore it is requested from this Hon’ble tribunal kindly take this matter on video conferencing in the interest of justice

**PLACE: JABALPUR (SUSHIL KUMAR SHARMA)**

**DATE: ADVOCATE FOR APPLICANT**

**E-MAIL-SUSHILS132@GMAIL.COM**

**CONTACT NO-7697960965**

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR**

**O.A. NO. /2020**

**APPLICANT** : Ramsanehi Pathak

# ***Versus***

**RESPONDENTS** : DRM Jabalpur & others

**UNDERTAKING REGARDING FILING THE HARD COPY ORIGINAL APPLICATION ALONG WITH ALL ANNEXTURES**

1. I Adv Sushil Kumar Sharma hereby undertakes to file entire original application along with the annexure whenever the regular working of Hon’ble tribunal would start or at any time whenever this Hon’ble tribunal directs to do the same

**PLACE: JABALPUR (SUSHIL KUMAR SHARMA)**

**DATE: ADVOCATE FOR APPLICANT**

**E-MAIL-SUSHILS132@GMAIL.COM**

**CONTACT NO-7697960965**

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR**

**O.A. NO. /2020**

**APPLICANT** : Ramsanehi Pathak

# ***Versus***

**RESPONDENTS** : DRM Jabalpur & others

**UNDERTAING FOR FILING THE COURT FEES**

1. I Adv Sushil Kumar Sharma hereby undertakes to file the postal order and other court fees payable for filing the present original application whenever the regular working of Hon’ble tribunal would start or at any time whenever this Hon’ble tribunal directs to do the same

**PLACE: JABALPUR (SUSHIL KUMAR SHARMA)**

**DATE: ADVOCATE FOR APPLICANT**

**E-MAIL-SUSHILS132@GMAIL.COM**

**CONTACT NO-7697960965**

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR**

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**RESPONDENTS** : DRM Jabalpur & others

**UNDERTAING REGARDING SENDING THE COPY OF ORIGINAL APPLICATION ALONG WITH ALL ANNEXTURES TO THE COUNCIL OF RESPONDENTS THROUGH EMAIL**

1. I Adv Sushil Kumar Sharma hereby undertakes that I have sent the copy of this original application along with all annexures to Shri A S Raizada council for the railways in his email id [ajay.s.raizada@gmail.com](mailto:ajay.s.raizada@gmail.com) and the copy of the same has been attached hearing.

**PLACE: JABALPUR (SUSHIL KUMAR SHARMA)**

**DATE: ADVOCATE FOR APPLICANT**

**E-MAIL-SUSHILS132@GMAIL.COM**

**CONTACT NO-7697960965**