

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 98 of 1998

Allahabad this the 04th day of July 2000

Hon'ble Mr.S.K.I. Naqvi, Member (J)

1. National Union of Railway Mail Service, Group-C, Gorakhpur Region, Gorakhpur through its Secretary Sri Somai.
2. National Union of Postal Employees Association, Gorakhpur Region, Gorakhpur through its Secretary Sri R.S. Singh.
3. Shri Somai, Shroting Assistant, R.S.I.S. 'G' Div., Gorakhpur Distt. Gorakhpur.
4. Shri R.S. Singh, Postal Assistant, Head Post Office, Gorakhpur, Distt. Gorakhpur.

Applicants

By Advocate Shri Swarajya Prakash

Versus

1. Union of India, Ministry of Communication, New Delhi.
2. Chief Post Master General, U.P. Circle, Lucknow.
3. Post Master General, Gorakhpur Region, Gorakhpur.
4. Senior Superintendent, Post Offices, Gorakhpur, Distt. Gorakhpur.
5. Senior Superintendent, R.M.S., G. Division, Gorakhpur, District-Gorakhpur.

Respondents

By Advocate Km. Sadhna Srivastava

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O R D E R (Oral)

By Hon'ble Mr.S.K.I. Naqvi, Jud. Member

The applicants have come impugning the memo dated 18.12.1997 passed by the Chief Post Master General, U.P. Circle, Lucknow i.e. respondent no.2 and the order passed by Post Master General, Gorakhpur Division contained in memo no RPG/AP/HRA/Recov./97, directing recovery of the arrear H.R.A. amount from January, 1998 with interest and panel interest. The order is annexed as annexure no.1 to compilation No.1. These orders have been assailed mainly on the ground that the applicants have not received any irregular payment, therefore, they are not liable for any recovery. The order has been passed without notice to the applicants and without giving an opportunity to show-cause in respect of that recovery.

2. The respondents have contested the case and filed the Counter-affidavit, in which it is stated that the payment of house rent allowance and compensatory(city) allowance were authorised by the Ministry of Finance ~~circle~~ memorandum dated 03.10.97. In the memorandum, the H.R.A. and C.C.A. were allowed at enhanced rate w.e.f. 01.8.97 on the basis of pay in the revised scale ~~from~~ the period from 01.1.1996 to 31.7.1996. The applicant no.1 made a representation dated 20.11.1997 for the payment of H.R.A. and C.C.A. on pre-revised scale at the

existing rates in the prescribed scale on notional pay. The case was examined and the Senior Post Master, Gorakhpur and the Postmaster, Kunraghan were directed to refer the govt. order and act accordingly. The H.R.A and C.C.A. for 01.1.1996 to 31.7.97 were drawn on the rates as existed at that time and by mis-interpreting the memorandum ^{paid} to the employees on the notional pay and pre-revised scale. Subsequently, a clarification on the above subject circulated by Chief Post Master General, U-P.Circle, was received on 18.12.97 and it was clarified that H.R.A. and C.C.A. at the enhanced rate was allowed from 01.8.97 only in the revised scale and there was direction for necessary action to recover the arrears of H.R.A. and C.C.A. ^{paid} for the period from 01.1.96 to 31.7.97. The respondents have a case that the recovery is being made only in respect of payment of H.R.A. and C.C.A. for the period from 01.1.96 to 31.7.97, for which the employees were not entitled and were paid by unauthorised drawal.

3. Heard, the learned counsel for the rival contesting parties and perused the record.

4. The perusal of the impugned order, copy of which has been annexed as annexure-1, goes to show that the order is not well reasoned and has been passed without giving an opportunity of hearing or ~~to~~ show-cause notice to the applicants

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in respect of alleged recovery. It is also taken by surprise that the interest and panel interest has been imposed ~~on~~ the amount, which has not been drawn by the applicants themselves but that amount has been paid to them because of alleged wrong interpretation of order in this regard and, therefore, I am not in a position to sustain this impugned order, which is quashed accordingly. However, it will be open to the respondents to take appropriate action and pass order after giving due opportunity to the applicants on being heard. The O.A. is disposed of accordingly. No order as to costs.

S. M. M.

Member (J)

/M.M./