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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 26th day of JULY 2007

Original Application No. 80 of 2005

Hon'ble Mr. P.K. Chatterji, Member (A)

Krishna Chandra Srivastava, S/o late M.N.
Srivastava, R/o 180 L/K-1, Rajroop Pur, Allahabad

. . . .Applicant

By Adv: Sri S. Lal

V E R S U S

1. Union of India through Secretary, M/O Communication, D/O of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi.
3. Post Master General, Allahabad.
4. Director Postal Services, Allahabad Region, Allahabad.
5. Senior Superintendent of Post Offices, Allahabad Division, Allahabad.

. . . .Respondents

By Adv: Sri S. Singh

O R D E R

The applicant is a retired Post Master, who worked as Post Master in Allahabad Kachehari Post Office. He is aggrieved that after his retirement Rs. 10450/- has been recovered from his DCRG by order dated 03.07.2003 (Annexure A-1) passed by the respondent No. 5. This amount, he says has been deducted from his DCRG for the reason, as stated by the respondents, that at the time of refixing the

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pay, HRA, CCA etc on the basis of recommendation of Pay Commission the concerned section wrongly calculated the HRA and CCA and this amount was paid in excess. The applicant, however, is aggrieved that before deduction of the amount no show cause notice was issued to him asking him as to why this amount which was paid in excess should not be recovered from his DCRG. In absence of such show cause notice this order is ultra vires and liable to be set aside by this Tribunal. Applicant's counsel has drawn my attention to the judgment of Hyderabad Bench of this Tribunal passed in OA No. 1379/01 in which the Tribunal had decided that keeping in view the principle of natural justice recovery of excess amount paid to an official cannot be passed without prior show cause notice to the employee to enable him to make representation. The applicant is seeking a direction to the Tribunal to quash the order of deduction dated 03.07.2003 on the ground that no show cause notice was issued. He has, however, not categorically stated that the amount which was recovered from him was actually paid to him in excess of his dues.

2. Sri Saurabh Srivastava brief holder of Sri S. Singh learned counsel for the respondents has taken me through the relevant paragraph of the CA in which the respondents have denied the allegations of the

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applicant. He has referred particularly paragraph 4 of the CA which is as follows:

"That the contents stated in paragraph 1 of the original application are not admitted in the form they stand. In reply thereto it is submitted that applicant was well acquainted with the fact that there was over payment of HRA and CCA amounting to Rs. 10450/-. The applicant was Postmaster, Allahabad Kutchery up to 31.02.2003 and this office letter No. E/1556 A dated 15.01.2003 was sent to Postmaster, Allahabad Kutchehri regarding pension and DCRG of the applicant. The first point of the letter is regarding outstanding dues to the recovered/adjusted from DCRG. A photocopy of Letter dated 15.01.2003 is being enclosed herewith and marked as Annexure CA-2. The letter was received by the applicant who was the then Postmaster, Allahabad Kutchehri but he deliberately not submitted the reply of the letter up to 31.02.2003. After his retirement, the Postmaster, Allahabad Kutchehri vide his letter No. AC- 2/LPC/K.C. Srivastava dated 07.04.2003 intimated under para 5 as under -

"The following recoveries should be made from the DCRG of the official; (A) disputed amount of HRA from 01.01.1996 to 31.07.1997 amounting to Rs. 10450/- is recoverable from the DCRG."

It is also to worth to mention that a letter No. A-1/33/Chap.III/Cor. Dated 27.08.2002 was sent by name to the applicant on his designation as Postmaster, Allahabad Kutchehri HO. A Photocopy of letter dated 27.08.2002 is being enclosed herewith and marked as Annexure CA-3 under which, being Drawing and Disbursing Officer he was directed on the subject regarding recovery of overpayment of HRA and CCA with reference to Postmaster General, Allahabad Letter No. Lekha-11/16-4/98 dated 06.06.2001 under which clear instructions was issued that in compliance to CAT order, decision may be taken on the basis of the reply received from the employees on the notice given to them. The applicant was Postmaster, Allahabad Kutchehri w.e.f. 12.06.2001 to 31.03.2003 and during this period letter No. A-1/22/Chap-III Cor/2001 dated 14.06.2001, 26.07.2001, 33.03.2002, 18.07.2002, 10.11.2002, 22.11.2002, 09.01.2003 were also issued to the applicant."

3. He has also drawn my attention to the annexure CA-2 and CA-3. I have perused annexure CA-3 which is the letter from the SSPO, Allahabad dated 27.08.2002. This letter has been addressed to two officials one of whom is the applicant of this OA. The notice of the applicant was drawn to the

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previous communication dated TT-11/16-4/98 dated 06.06.2001 in which it was clearly mentioned that on the basis of direction of the higher authority it was decided to recover the excess paid amount on account of HRA and CCA from the officials concerned. With this information the applicant was requested to take necessary action for making the recovery in respect of the concerned officials and send report for information to the PMG. I have perused the contention of Annexure CA-3. This the letter from the SSPO, Allahabad to the Post Master, Allahabad Kachehari Post Office. This letter contained the service book of the applicant alongwith copy of Audit objection regarding outstanding dues pending recovery from the official. The outstanding amount was on account of excess payment of HRA and CCA.

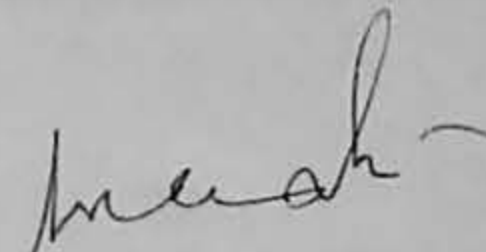
4. It would appear clearly from the above two communications that the Post Master was very much aware of the steps being taken to recover the excess payment of HRA and CCA from him. He was directed to do so while he was still in service. However, he did not do so although he was aware of his own responsibility in this regard. Therefore, it does not behove him to say now it was deducted without granting him any opportunity to show cause. It is clear from the submission made by the respondents at para A of their CA that during the transition from the pay structure by IV CPC to V CPC the office made

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certain mistakes in calculating the HRA and CCA which resulted in excess payment and this amount had to be recovered after it was detected and it was pointed out by the Directorate. It is not that the applicant continued to get the benefit of this mistake for long time and all of a sudden this order has come upon him. On the basis of above mentioned factual matrix and considerations as stated above I do not find any merit in this OA and the same is dismissed. No cost.

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Member (A)