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IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL,
ADDITIONAL BENCH ALLA HABAD

Registration No. O.A. 366 of 1987.

All India Postal Employees Union
Class II and E.D.As.Divisional Branch
Allahabad. Applicant.

Versus.

Union Of India & Others ... Respondents.

Hon'ble D.S.Misra,A.M.
Hon'ble G.S.Sharma,J.M.

(By Hon'ble D.S.Misra,A.M.)

1. This is an application under section 19 of the Administrative Tribunal Act-XIII of 1985, seeking declaration that the payment of arrears of HRA & CCA w.e.f. 1.1.1986 to 30.9.1986 as per order dated 23.9.1986 is justified and to declare orders dated 18.3.87 & 20.4.87 as illegal and to cancel the same.

2. The case of the petitioner's is that they were entitled to receive arrears of HRA & CCA w.e.f. 1.1.1986 to 30.9.86 at the rates indicated in the letter dated 23.9.86 of the Government of India, Ministry of Finance, Department of Expenditure, New Delhi, that the Senior Post-Master, Post Office Allahabad, respondent No.3, paid arrears of HRA & CCA w.e.f. 1.1.86 to 30.9.86 to it's employees on 19.12.1986 & 20.12.1986; that the Postal Employees received and consumed the above arrears in good faith without there being any element of fraud or mis-representations; that Director Accounts (Postal) U.P.Circle, Lucknow, vide his order dated 18.3.87 (copy Annexure-2) directed

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the respondent No.3 to recover the above as arrears in lump-sum from salaries of employees with immediate effect; that on the basis of the aforesaid order dated 18.3.1987 the respondent No.3 has passed an order on 20.4.87 (copy Annexure No.3) to the accounts section to deduct the said arrears from the salaries of the concerned employees with immediate effect in four monthly instalments. The Petitioner's have prayed for quashing of the two orders dated 18.3.87 & 20.4.87.

3. In the reply filed on behalf of the respondents it is stated that the instructions contained in the letter dated 23.9.86 of the Department of Expenditure, Ministry of Finance, Government of India, does not provide for payment of any arrears of house rent allowance and city compensative allowance for the period of 1.1.86 to 30.9.86, as claimed by the petitioner's; that a perusal of Para-6 (copy Annexure-1) of the above mentioned letter would go to show that it provides for drawl of the house rent allowance and city compensative allowance for the period 1.1.86 to 30.9.86 at the existing rate on the notional pay in the pre-revised scale i.e. at the rates which prevailed on 31.12.1985 on pay which the Government servant would have drawn but for the introduction of the Central Civil Services (revised pay) Rules 1986 + Dearness pay (upto 320 points of D.A&ADA); that para-5 of the letter dated 23.9.86, referred to above shall be applicable w.e.f. 1.10.86 to only those employees who did not opt for the revised scale of pay from 1.1.86 and continued to draw of pay which prevailed prior to 1.1.1986 and not to those who opted for the revised scale of pay w.e.f. 1.1.86.

4. We have heard arguments of the learned counsel for the parties and carefully considered the documents on record.

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The respondents have stated that the house rent allowance and the city compensative allowance for the period 1.1.86 to 31.8.86 on the old rates was already drawn and paid to the petitioners, who had opted for the revised scale of pay w.e.f. 1.1.1986. The instructions contained in the letter dated 23.9.86, referred to above, provides for payment of HRA & CCA at the revised rates w.e.f. 1.10.86.

5. We have very carefully considered the instructions contained in para-6 of the letter dated 23.9.86 and we find that there is no ambiguity on the point of payment of HRA & CCA to Central Government Employees. We are of the opinion that the petitioners, who had opted for the revised scale of pay w.e.f. 1.1.86 were entitled to HRA & CCA at the rates existing on 31.12.85, on pay which the Government Servant would have drawn in the pre-revised scale of pay and that they were not entitled to the new rates of HRA & CCA, which became applicable w.e.f. 1.10.1986 and not from any earlier date. It thus follows that the respondent No.3 had committed the gross mistake in sanctioning HRA & CCA at the revised rates to the petitioners. We are also of the opinion that respondent No.3 was not authorised to do so. In view of this the order for recovery of over-payment made to the petitioners cannot be considered arbitrary or illegal and it is in the nature of correcting a gross mistake committed by respondent No.3. The order dated 18.3.87 of the Accounts Officer, of the office of the Director of Accounts (Postal), directing the Senior Post-Master, Allahabad to recover the irregular payment of HRA & CCA is a correct order. Similarly the order dated 20.4.87 passed by the Sr. Post-master, Allahabad implementing the decision contained in the letter dated 18.3.87 is also a correct order.

This order provides for recovery in four monthly instalments

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and appears to have been done with a view to reduce the financial hardship which would have been caused if the recovery had been ordered in one instalment.

6. On the facts and circumstances of the case, we are the opinion that there is no merit for the claim petition and the same is dismissed without any order as to costs.

S. Narasimha

Member(J)

B. M.

Member(A)

Dated: January, 22-1-89
1989.

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