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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH , CUTTACK.

O.A.NO.765/1995

22/07/2002

CORAM :

HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIAL)

Bedpad Gardia, Sub-Postmaster,
Orient Colliery, Brajaraj Nagar,
Dist-Jharsuguda.

....Applicant

For the Applicant: Shri D.P.Dhalsamant, Advocate

Versus

1. Union of India, represented through
Chief Postmaster General, Orissa Circle,
Bhubaneswar-751 001.
2. Senior Superintendent of Post offices,
Sambalpur Division, Sambalpur-768 001.

....Respondents

For Respondents- Shri A.K.Bose,
Senior Standing Counsel
for Union of India.

ORDER

M.R.MOHANTY, MEMBER(JUDICIAL)

Heard Shri D.P.Dhalsamant, learned Counsel
appearing for the Applicant and Shri A.K.Bose(Learned
Senior Standing Counsel for Union of India) appearing
for the Respondents.

2. The Applicant, while continuing in the post
of L.S.G. Postal Assistant in Jharsuguda Head Post Office,
faced with orders under Annexure-3 dt.02.08.1995 and
Annexure-4 dt.09.10.1995 ; by which an amount of Rs.12,178/-
(@ Rs.500/- per month) was sought to be recovered from him.
This recovery order was passed on the basis of the objection
(raised by the Postal Audit Party) dated 07.07.1995.

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Before issuance of the said orders under Annexure-3 dt.02.08.1995 and Annexure-4 dt.09.10.1995, no opportunity was given to the Applicant to have his say in the matter and, as such, as has been submitted by the Advocate for the Applicant, there was violation of principles of natural justice/rights under Article-14 of the Constitution of India.


3. A counter has been filed by the Respondents ; wherein the Audit Report has been filed as Annexure-R/7 to show that the recoveries ordered to be made from the salaries of the Applicant to be just. Learned Senior Standing Counsel has pointed out that since the Applicant did not serve for complete 03 years as Accountant, his fixation of pay (in the promotional post) was wrong.

4. By taking me through various statements in the Audit report in question(Annexure-R/7) and by comparing the same with other materials available on records (like Annexure-R/4 and Annexure-1 to the Original Application) the Advocate for the Applicant pointed out several material discrepancies. It is the case of the Advocate for the Applicant that had opportunities been given to the Applicant to have his say in the matter, before issuance of recovery orders under Annexure-3 dt.02.08.1995 and Annexure-4 dt.09.10.1995, the Applicant would have explained that the stand taken in the audit report are inconsistent to various materials on record and that the fixation of pay was just .

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5. In the aforesaid premises, without entering into the merits of the case, this Original Application is disposed-of by setting aside the orders under Annexure-03 dt.02.08.1995 and Annexure-04 dt.09.10.1995 ; as those were issued in gross violation of principles of natural justice/ in gross disregard to the provision of Article-14 of the Constitution of India. (But in the circumstance of the case, liberty is granted to the Respondents to call for comments from the Applicant on the audit report and take into consideration the same. The Applicant should explain the Respondents in detail, as to how the audit report is not sustainable. In the event it is found by the Respondents that nothing is recoverable from the Applicant, then part of the recoveries already made from the Applicant should be refunded to him.) No costs.

/AKB/


(M. R. MOHANTY)
MEMBER (JUDICIAL)