

For admission.

Fatra 28/2 Bench

For admission.

Fatra 1/4/02 Bench

Counter to
reorder file.
copy Smt.
for Adminis-
tration
Hearing

h
29/3
Bench

On 28.1.4.04

Copies of order
prepared for counsel
for both sides.

h
29/3
W 6/4/04
B.C.J.

08. 01.03.02

None appears for either side.
Adjourned to 02.04.02.

Member (S)

09. 02.04.02

This is a division bench matter.
put up before next division bench.

Member (S)

Order dated 1.4.2004

None appeared for the applicant nor the applicant did appear in person. There has also been no request made on behalf of the applicant seeking an adjournment. However, Shri A.K.Bose, learned Sr.Standing Counsel was present and with his aid and assistance we have perused the records and also heard him.

In this case the applicant is aggrieved by the decision of the Respondents to for recovering from his pay the overpayments made to him because of irregular fixation of pay with effect from 30.11.1983.

The facts of the case are that the Deputy Director, Accounts (Postal) by his letter dated 30.9.2000 had informed Respondent No.3 that stepping up of pay of the applicant at par with one Shri Ananta Jena working at Regional Office, Sambalpur was made erroneously. He further stated the reason in that letter as to how the applicant was not entitled to stepping

up of pay. ~~They~~, therefore, directed the Sr. Superintendent, R.M.S.(N) Division that the stepping up of pay of the applicant being irregular(as he did not satisfy the condition No.C of Govt. of India order No.22 under FR 22) the resultant over-paid amount to the applicant should be calculated at his end and accordingly recovery should be effected from the pay of the official. It is in this background, Res.No.3, by his order dated 14.9.2001(Annexure-1) issued direction to the H.R.O., R.M.S.(N)Division to recover the over-paid amount from the pay of the applicant after intimating to the applicant. The applicant has, therefore, approached this Tribunal with prayer to quash the said order dated 14.9.2001(Annexure-1) in order to protect his interest.

From the records it appears that the pay of the applicant was stepped up under an erroneous consideration. The applicant has not been able to rebut the stand taken by the Deputy Director, Accounts(Postal). In the circumstances, we are of the view that the Respondents are within their rights to rectify/correct their own error which had crept in while fixing the pay of the applicant at par with Shri Ananta ~~June~~ ^{June}. That being the fact of the case, we see no illegality in the decision taken by the Respondents in so far as rectification/correction of the ~~the~~ error/mistake is concerned and accordingly interference by the Tribunal in that respect is unwarranted.

So far as recovery of over-paid amount from the salary of the applicant is concerned, we would like to make it clear that the law by now is well settled that even if pay is found to have been fixed erroneously, but once the employee has been allowed the benefit of a pay scale, no recovery can be effected from his pay later on the ground that the over-payment was made due to administrative error/mistake. That being the settled position of law, we direct the Respondents not to effect any recovery of the excess amount already paid to the applicant since 1983 because of higher fixation of pay (as the overpayment is not attributable to the work and conduct of the applicant).

With the above observation and direction, we dispose of this O.A. No costs.

John 11/4/04
VICE-CHAIRMAN

J MEMBER (JUDICIAL)