

11

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 473 OF 2009
CUTTACK, THIS THE 06th DAY OF April, 2011

Rabindra Prasad Swain..... Applicant

Vs

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

(C.R.MOHAPATRA)
MEMBER (ADMN.)

12

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CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 473 OF 2009
CUTTACK, THIS THE ~~6~~⁶⁴ DAY OF April, 2011

CORAM :

HON'BLE MR. C.R.MOHAPATRA, MEMBER(ADMN.)

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Rabindra Prasad Swain, aged about 65 yrs, son of late Narayan Prasad Swain, At/PO-Modipara, P.S.-Sambalpur Sadar, Town/Dist- Sambalpur.

.....Applicant

Advocate(s) for the Applicant- Mr. P.C.Mishra

VERSUS

1. Union of India represented by the Chief Post Master General, Orissa, Bhubaneswar.
2. Post Master General, Sambalpur Division, Sambalpur, Town/Dist. Sambalpur.
3. Accounts Officer, Office of the Director of Accounts, Postal (Pension) Mahanadi Vihar, Cuttack-4.
4. Post Master, Head Post Office, Sambalpur, At/P/Dist- Sambalpur.

..... Respondents

Advocates for the Respondents – Mr. S. Barik.

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ORDER

HON'BLE MR.C.R.MOHAPATRA, MEMBER(A):

Applicant, a retired Postman working under the Postmaster, Sambalpur, Head Post Office, has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985 challenging the recovery of outstanding dues from his pension amount vide the letter under Director of Accounts (Postal) at Annexure-3. Applicant in this O.A. has prayed for the following reliefs:

“....letter dated 4.6.2009 under Annexure-3 issued by Respondent No.3 may kindly be quashed/set aside.

And further direction may kindly be passed, directing the Respondent No.4 not to deduct Rs. 1000/- from the monthly pension of the applicant hence forth.”

2. The applicant has also prayed for an interim relief to direct Respondent No.4 to stop deduction from his monthly pension until further order.
3. This Tribunal, on 09.10.2009, while hearing the Ld. Counsel for the parties directed the recovery order to be kept in abeyance till the final decision in this matter.
4. Due to the absence of Ld. Counsel for the applicant as well as the applicant, the O.A. was dismissed for non-prosecution vide order dated 23.07.2010. However, on account of M.A. 760/10, the

O.A. was restored by this Tribunal's order dated 22.12.2010 and, finally after hearing the parties, the hearing was concluded on 25.02.2011.

5. Briefly stated, the facts of the case are that the applicant while working under the Respondent No.4 was allotted with Quarter No.2 at Postal Staff Quarter, Sambalpur since 1980, which was original allotted to one Krushn Prasad Swain (K.P.Swain) till 1977 and thereafter to one Sachita Sahu, who had occupied the same till 1980. It is the case of the applicant that after his retirement on 30.11.2005, he was served with a letter dated 04.06.2009 as at Annexure-3 informing him that an amount of Rs. 79,261/- is outstanding against him towards license fees, water charges and electricity charges and further that the recovery was to be made from his pension amount. The applicant has filed No Objection Certificate at Annexure-1 issued by the Sub-Divisional Officer, WESCO, Sambalpur declaring that Shri K.P.Swain has cleared his dues upto 2/06. The applicant further submits that he had been paying the electricity dues, in support of which he has filed Electricity Bill as Annexure-2 series. Insofar as water charge and license fee is concerned, the applicant states that the same has been deducted from his monthly salary.

6. The Respondents have filed their counter contesting the claim of the applicant and have justified the recovery as contemplated vide Annexure-3 to the O.A. The Respondents submit that though the applicant retired on 30.1.2005, he vacated the quarters on 18.12.2006 without submitting clearance certificate on electricity charges, water charges and quarter license fee although he had deposited Rs. 830/- towards license fee and water charges on 29.03.2006. It is further stated that the clearance certificate submitted by the applicant on electricity up to February 2006 issued in favour of one Sri K.P. Swain, on inquiry was found to be a fake one and it was ascertained from the WESCO Authority that electricity charges amounting to Rs. 76,505/- is outstanding against the applicant as at Annexure-R/6. Respondents have further clarified that total amount on license fee, damage rent, water charges and electricity charges outstanding against the applicant as on 18.12.2006 was calculated to be Rs. 84,419/- as per Annexure-R/7 and after adjustment of final DCRG an amount of Rs. 79,261/- was still outstanding. Ld. Counsel for the Respondents submits that despite several directions when the applicant did not deposit the outstanding amount, the Respondents have rightly issued the recovery order, and, accordingly prays for dismissal of the O.A.

7. The applicant has not filed any rejoinder to the counter.

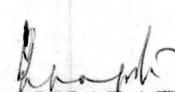
8. Heard Mr. P.C.Mishra, Ld. Counsel for the applicant and Mr. S.Bark, Ld. Additional Standing Counsel appearing for the Respondents, who reiterated their stands taken in the pleadings and perused the materials on record.

9. At Annexure-1, No due Certificate has been given in favour of one Sri K.P.Swain whereas Annexure-R/5 of the counter has mentioned Sri "R.P.Singh". There is an overwriting in the name, i.e. instead of K.P.Singh, it has been made as R.P.Singh. The name of the applicant is R.P.Singh. Since, this is a matter of recovery of an amount towards electricity charges consumed by the occupant and not by the office, if the dues were unpaid for such a long time, it was for the electricity company i.e. WESCO, to have demanded the same at periodic interval through monthly or quarterly bill and they could not have waited for 25 years (from the year 1980) to realise the arrears from the applicant. On the ground of non-payment for such a long time, the electricity company could have initiated action not only for recovery but also other punitive measure, which does not seem to have been resorted to in this case. The applicant's contention is that he has been making payment in the name of original allottee Sri K.P.Swain for Qt. No. 2 having Consumer No. 4111-2104-0091. In any case, after retirement, no recovery can be made from the pension amount without following the due procedure as provided under the

CCS (Pension) Rules; hence the cut from the pension amount is de
hors the relevant provision of the CCS (Pension) Rules. Thus, the
action of the Respondents vide Annexure-3 is declared to be violative
of the statutory rules and accordingly, the same (Annexure-3) is
hereby quashed.

10. However, it is for the electricity company to take further
action as per law to recover the amount from the applicant, if he has
defaulted in making payment for the electricity consumption in the
quarters, which was occupied by him for the period from 1980 to
2006. It is not clear as to what is the role of the Respondents
Department in liquidating the charges towards electricity consumption
in the residential accommodation. No document is forthcoming to
show that the Department had given an undertaking for liquidating the
charges towards electricity consumption by the applicant that the
action for recovery from pension emanated from such an undertaking.

11. With the above observation and direction, the O.A.
stands allowed. No costs.


(C.R.MOHAPATRA)
MEMBER (ADMN.)