

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 559/2015

this the 6th day of December, 2016

CORAM

HON'BLE SHRI R.C.MISRA, MEMBER(A)

Ananda Chandra Rout aged about 61 years S/o Sindhu Rout At/PO Golagola, District Nayagarh, at present working as GDSMD – cum – Golagola BO under Puri Division.

...Applicant

By the Advocate : Mr. T.Rath

-VERSUS-

1-Union of India represented through its Secretary – cum – Director General (Posts), Dak Bhawan, New Delhi-1.

2-Chief Post Master General, Odisha Circle, Bhubaneswar, At/PO – Bhubaneswar GPO – 01, District Khurda.

3-Director of Accounts, Postal Mahanadi Vihar, Cuttack.

4-Senior Superintendent of Post Offices, Puri AT/PO/Dist.Puri.01.

...Respondents

By the Advocate : Mr. C.M.Singh

O R D E R

PER R.C.MISRA, MEMBER(A) :

The applicant in this OA is working as GDSMD-cum-MC of Golagola BO under Puri Division in the Department of Post, and has approached this Tribunal praying for the following reliefs :-

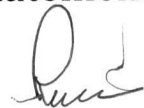
- (a) To quash the orders contained in Annexure – A/5, Annexure A/6 and Annexure A/9.
- (b) The respondents may be directed to restore the TRCA of the applicant in the TRCA slab of Rs. 4220-75-6470 as on 1.1. 2006 and refund the amount already recovered.
- (c) And pass appropriate orders as may be deemed fit and proper in the facts and circumstances of the case and allow the O.A. with cost."

2. The facts of this O.A., briefly stated are that applicant has been working as GDSMD/MC, Golagola BO in account with Nayagarh HO since 2.9.1977. He was drawing his TRCA in the slab of Rs. 1740-30-



2640 as on 31.12.2005. The Department of Post vide an order dated October 9, 2009 conveyed the decision of Government to implement recommendations of R.S.Nataraja Murthi Committee with regard to revision of wage structure of Gramin Dak Sevaks. The Time Related Continuity Allowance (TRCA) for different categories of Gramin Dak Sevaks was revised w.e.f. 1.1.2006. According to the order dated 9.10.2009, TRCA ^{of} and GDSMD was revised from Rs. 1740-30-2640 to Rs. 4220-75-6470 w.e.f. 1.1.2006. The Chief Post Master General, Odisha (Respondent No.2) by his D.O. letter dated 17.5.2012 sent to all Superintendents of Post Offices, conveyed the direction that in respect of GDS Officials engaged up to 31.12.005, TRCA shall be fixed in the corresponding stage w.e.f. 1.1.2006, and for that no statistical data is required to be collected. The Post Master, Nayagarh HO fixed the TRCA of the applicant in the revised slab of Rs. 4220-75-6470 in correct compliance of the directions of the Department, and accordingly, arrears were drawn and paid to the applicant. Thereafter, respondent No. 4, Senior Superintendent, Post Offices, Puri, ordered reduction of the TRCA to the slab of Rs. 3330-60-Rs.5130/- and recovery of excess amount paid by his letter dated 23.1.2012, under the direction of Director of Accounts (Postal). The Director of Accounts in his letter dated 8.11.2011 pointed-out overpayment noticed during verification of TRCA of GDS as on 1.1.2006 of Nayagarh HO. The name of applicant was included in the list of GDS employees in respect of whom excess payment was noticed. Recovery of excess payment made was also directed by Director (Acts.).

3. It is alleged by the applicant that no notice was served upon him before recovery was made, and that overpayment was arrived ^{at}, based upon some "bogus work-load statement" behind his back.



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Since TRCA was reduced by Rs. 700/- and recovery was started @ 1000/- per month, applicant being financially hit, submitted a representation to respondent No. 4 on 17.9.2013, which however was not considered. The applicant then filed O.A. No. 194/2014 before this Tribunal which was disposed of by an order dated 27.3.2014 ^{by} directing respondent No. 3 to consider representation dated 17.9.2013 and dispose it of within a period of 60 days. In compliance of this direction, respondent No. 3 considered the representation, but rejected the same vide an order dated 13.8.2014. The applicant thus aggrieved by the order of rejection has approached this Tribunal with the prayer as aforesaid, in this second round of litigation.

4. The respondents have filed a counter-affidavit in which they have given the factual account of the case. Regarding the dispute in question, they have stated that TRCA of applicant was supposed to be revised to the slab of Rs. 4220-75-6470 on the condition that the workload as on 1.1.2006 should exceed 3 hours 45 minutes. There was delay in collection of statistics regarding work-load. Therefore, TRCA was fixed in the corresponding stage w.e.f. 1.1.2006. Arrears were disbursed by obtaining undertakings from GDS employees as a pre-condition of disbursement of arrears. On verification of fixation statement, it was detected that TRCA of the employee as per the existing workload should have been fixed at Rs. 3300- 60 - 5130 , and it was ordered that overpaid amount of Rs. 8,382/- should be recovered. The re-fixation of TRCA and order of recovery are on account of workload calculation, and there are good grounds for the same. However, it is submitted by the respondents that in the light of the judgment of the Hon'ble Apex Court, action has been taken to stop recovery of excess paid TRCA of the Gramin Dak Sevaks with

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immediate effect pending formal approval of the competent authority.

5. The applicant has filed a rejoinder in the matter. His main submission is that respondents refixed and reduced the TRCA on the basis of some bogus workload statistics. The applicant is working as GDS Mail Deliverer - cum - Mail Carrier; but his workload as Mail Carrier was not taken into account. It is also submitted in the rejoinder that even though an undertaking was given by the applicant that in case of overpayment being detected, recovery was to be made from him, without show-cause notice recovery should not have been effected. With these submissions, he has reiterated the prayer made in the O.A.

6. Having perused the records in this O.A., I have heard the learned counsel for both sides. The main issue involved in the O.A. is whether on the basis of workload statistics, reduction in TRCA of the applicant was justified. The learned Additional Central Government Standing Counsel on behalf of respondents has submitted a copy of the workload statistics which is available at Annex.R/4. On a perusal of the statistics at Annex.R/4, the working hours are calculated as 3 hours 34 minutes, and TRCA slab was indicated as Rs. 3330/-. It was considered necessary by the Tribunal to understand clearly how the workload statistics of the applicant was recorded by the respondents. In compliance of the directions of the Tribunal, on 23.9.2016, Shri M.K.Nayak, Senior Superintendent of Post Offices, Bhubaneswar, who is also in the array of respondents as respondent No. 4 i.e. SSPO, Puri, appeared before me and explained the contents of Annexes. R/4 and R/5. Later on, he has submitted a written note on the matter.



7. A perusal of this note reveals the following submission :

The applicant is working as GDS MD/MC and performing duties of both mail deliverer and mail carrier. As per provision, wherever there is a combination of such function, the GDS is designated by the nomenclature pertaining to the function predominantly performed by him. In the instant case, the delivery workload is predominant over mail conveyance work and hence the applicant is designated as GDS MD-cum-MC. The workload is determined by multiplying the average of six days transaction, like un-registered mail, registered articles, money order(s) etc. as stated in the statistics, by the time factor specified therein. According to this formula, for unregistered mail the work hour is 15.84 minutes. For registered parcel the work hour is 0.825 minutes. The average distance travelled by applicant is 23 kms. And the workload is 138 minutes. The sum of all these items comes to 154.66, i.e. 2 hours 34 minutes. Besides, for mail carrier duty, the workload calculated as 140 minutes. So combination of work-load of both Mail Deliverer and Mail Carrier comes to 4 hours 54 minutes for which the applicant is entitled for the second slab of TRCA Rs. 4220-75-6470.

8. It is further admitted by respondent No. 4 that in the case of the applicant, the TRCA slab was inadvertently fixed in the first slab Rs. 3330-60-5130 for workload up to 3 hours 45 minutes instead of the slab of Rs. 4220-75-6470 for workload of more than 3 hours 45 minutes.

9. With the assistance of respondent No.4, therefore, it has been clarified to the Tribunal that applicant is entitled to TRCA of Rs. 4220-75-6470 as per his workload. The earlier stand of the



respondents is admitted as an inadvertent error. There is no further dispute about the issue. The applicant in the OA had also submitted that he is a low paid employee, and according to the judgment of the Hon'ble Apex Court in the case of ***State of Punjab and Ors. Vs. Rafiq Masih etc.***, recovery is impermissible from employees belonging to Class III and Class IV. The respondents in the counter, have also admitted this position and indicated that in the light of the decision of Hon'ble Apex Court, action has been taken to stop recovery of excess paid TRCA of the Gramin Dak Sevak with immediate effect pending formal approval of competent authority.

10. In view of the discussions made above, it is absolutely clear that the applicant's prayer for fixation of TRCA in the slab of Rs. 4220-75-6470 as on 1.1.2006 is justified with reference to the workload as clarified by respondent No. 4 who personally appeared before the Tribunal. The following direction is, therefore, issued to the respondents :

(i) The TRCA of the applicant may be restored to the slab of Rs.4220-75-6470 as on 1.1.2006 and revised order may be issued forthwith.

(ii) The amount recovered by respondents from the TRCA of the applicant may be refunded within a period of 30 days from the date of receipt of the order.

(iii) Order dated 13.8.2014 is quashed and set aside.

11. The O.A. is thus allowed with no order as to costs.


[R.C.Misra]
Member (A)