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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O. A. NO. 617 OF 2012

Cuttack, this the 26th day of August, 2014

CORAM

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

1. Bharat Charan Jena,
aged about 53 years,
S/O Late Achyuti Jena,
Vill/Po:Dharmadaspur,
Via:Kuanpal, Dist-Cuttack,
Now working as GDSCM/MD,
Dharmadaspur B.O. in a/c with Kuanpal S.O
2. Binod kumar Mallik,
aged about 37 years,
S/O Late Bairagi Charan Mallik,
Village/Po:Rahania
Via:Kuanpal, Dist-Cuttack,
Now working as GDSCM
Rahania B.O. in a/c with Kuanpal S.O
3. Bairagi Charan Kar,
S/O Late Sukadev Kar,
Vill/Po:Lunahar,
Via:Salipur, Dist-Cuttack,
Now working as GDSCM cum Packer Kendupatna S.O.
4. Jasobanta Prusty,
aged about 56 years,
S/O Gokhai Prusty,
At/Po:Pikol, Via:Sungra,
Dist-Cuttack,
Now working as GDSCM Pikol B.O
in a/c with Sungara S.O
5. Manoranjan Routray,
aged about 60 years,
S/O Late Upendra Routray,
Vill: Talapara, Po:Bhimdaspur,
Via:Sungra, Dist-Cuttack,
Now working as GDSCM Bhimdaspur B.O
in a/c with Sungara S.O

See

6. Muralidhar Sahoo,
aged about 58 years,
S/O Late Kelu Sahoo,
Vill/Po:Sukleswar, Dist-Cuttack,
Now working as GDSMC Badagotha B.O
in a/c with Sungara S.O
7. Priyanath Baral,
aged about 48 years,
S/O Late Gopinath Baral,
At/Po:Nurtang,
Via:Kuanpal, Dist-Cuttack,
Now working as GDSMC
Nurtang B.O. in a/c with Kuanpal S.O
8. Sri Manoj Kumar Nayak,
aged about 38 years,
S/O Late Golak Ch. Nayak,
At/Po:Mulabasant,
Via:Kuanpal, Dist-Cuttack,
Now working as GDSMC
Mulabasant B.O. in a/c with Kuanpal S.O
9. Chakradhar Jena,
aged about 60 years,
S/O Late Katkia Jena,
Srikrustapur, Po:Basudevpur,
Via:Kuanpal, Dist-Cuttack,
Now working as GDSMC
Basudebapur B.O. in a/c with Kuanpal S.O
10. Babaji Mallik,
aged about 60 years,
S/O Late Mahi Mallik,
At:Phogala, Po: Kuda,
Via:Sungada, Dist-Cuttack,
working as GDSMC Kuda B.O
in a/c with Sunguda S.O
11. Sk. Liakat Ali,
aged about 45 years,
S/O Late Mahamad Ali,
At:Jhadeswarpur, Po;Gopalpur,
Via:Nischanta Koili Cuttack,
working as GDSMC Natkei B.O
in a/c with Nischanta Koili S.O



12. Rupendra Mallik,
aged about 47 years,
S/O Kulamani Mallik,
At:Gopalpur, Po:Badagabha,
Via:Sungra, Dist-Cuttack,
Now working as GDSMC Badagabha B.O
in a/c with Sungara S.O
13. Banambar Mohanty,
aged about 57 years,
S/O Natabar Mohanty,
At/Po:Orikanta, Via:Lemalo, Cuttack,
Now working as GDSMC Kusunpur B.O
in a/c with Asureswar S.O,
Kendrapara, H.O.
14. Muralidhar Barik,
aged about 62 years,
S/O Late Paban Barik,
At/Po:Orikanta, Via:Nemalo, Dist: Cuttack,
Now working as GDSMC Orikanta B.O
in a/c with Nemalo S.O,
15. Sri Sribasta Rath,
aged about 46 years,
S/O Sadananda Rath,
At/Po: Kusanpur, Via:Asureswar,
Dist:Kendrapara,
Now working as GDSMC Kusunpur B.O
in a/c with Asureswar S.O.

...Applicants

(Advocates: Mr. P.K. Padhi)

VERSUS

Union of India Represented through

1. The Secretary - Cum- Director General of Posts,
Dak Bhawan, Sansad Marg,
New Delhi-110 116.
2. Chief Postmaster General,
Odisha Circle, At/Po.Bhubaneswar,
Dist-Khurda-751001.
3. Superintendent of Post Offices,
Cuttack North Division,
At-P.K. Parija Marg, Po:Cuttack G.P.O.,
Cuttack-753001.



... Respondents

(Advocate: Mr. P.R.J. Dash)

ORDER

R.C.MISRA, MEMBER(A):

In this Original Application, applicants, 15 in number, who are presently working as GDSMC/MD/Packer in the Department of Posts have approached this Tribunal being aggrieved by the action of Superintendent of Post Offices, Cuttack(N) Division(Res.No.3) in recovering Rs.1700/- from the TRCA of the applicants without issuing any order or without giving any prior notice to have their say on ^ethe of the proposed recovery and thereby, there has been violation of the principles of natural justice. Therefore, they have prayed ^ethat for direction to be issued to Respondents to refund the recovered amount along with 18% interest and to protect the TRCA of the applicants.

2. It is the case of the applicants that recovery was made in June and July, 2012 and they were not given any opportunity to put forward their grievances against the action of the Respondents. They made a representation to Res.No.3 but the Respondents did not consider the same. Their main grievance is that they were kept in the dark as to how much amount will be recovered from the TRCA and what were the reasons of recovery.

3. Respondents by filing a counter affidavit have mentioned that the Department of Posts had constituted R.S.Natraj Murthi Committee to examine the system of wage structure of GDS. This Committee submitted their report on 19.10.2008 and based upon the report, the wage structure of the GDS was revised. At the time of payment of arrears of TRCA as calculated on the basis of the guidelines for the period from 1.1.2006 to 30.9.2009, undertakings were obtained from the applicants that if any excess amount has been paid, the same



shall be recovered from them. In the meantime, Director of Postal Accounts carried out cent percent verification of TRCA in respect of GDS employees and detected excess payment for which recover order was issued.

4. By giving undertakings applicants have completely given consents to the effect that in the event of re-fixation of TRCA, any excess payment detected in the light of the guidelines, ~~the same~~ will be subsequently recovered from them or will be adjusted against the future payment due to them. Therefore, the submission made in the counter affidavit is that the Respondents have acted within their authority.

5. Having heard the learned counsel for both the sides, I have perused the records.

6. Learned counsel has candidly submitted that the applicants had no knowledge of any such recovery as no notice was given asking them to have their say prior to effecting recovery and therefore, there has been violation of the principles of natural justice. It was brought to my notice that by a letter dated 16.5.2012 Director of Postal Accounts, Cuttack has advised the SPOs, Cuttack(N) Division to make recovery of amounts which have been calculated against each of the GDS employees as mentioned in this letter.

7. On the other hand, learned ACGSC clarified that this letter is only an internal communication between the authorities of the Department and applicants had no prior knowledge about the amount that was going to be recovered from the TRCA. It is the submission of the learned ASCGS that since the applicants have already given undertakings to the Department that any excess



payment made would be recovered from the TRCA, no prior notice was required to be served on them before effecting recovery.

8. It is no doubt a fact that the authorities are within their competency to make recoveries if they found any excess payment to have ^{been} made. However, the principle of natural justice demands that before taking any action prejudicial to the interest of the employee, he should be asked to show cause on the proposed action, so that he would be able to defend his interest. In this regard, the law laid down by the Hon'ble Supreme Court in Krishna Swami vs. UOI & Ors. [AIR 1993(SC) 1407, reads as follows:

"Reasons are the links between the material, the foundation for their erection and the actual conclusions. They would also demonstrate how the mind of the maker was activated and actuated and their rational nexus and synthesis with the facts considered and the conclusions reached, lest it would be arbitrary, unfair and unjust, violating Article 14 or unfair procedure offending Article 21".

9. Upon perusal of internal communication dated 16.5.2012 between the Director of Postal Accounts and the SPO, Cuttack North Division, apparently, no reason has been assigned regarding the proposed recovery from TRCA. Considering the submissions made by the learned counsel for both the sides, I would direct Respondent No.3 to communicate the applicants the exact amount to be recovered as well as the reasons for the same, within a period of thirty days from the date of receipt of this order and in such eventuality, if the applicants make any representations, the same shall be considered and disposed of through a reasoned and speaking order within a period of 45 days from the date of receipt of representations.

Ordered accordingly.



The O.A. is disposed of as above. No costs



(R.C.MISRA)
MEMBER(A)

BKS

