5

# CENTRAL ADMINISTRATIVE TRIBUNAL
# CUTTACK BENCH, CUTTACK

O.A.No.743 of 2012

All India Postal Extra Departmental
Employees Union, Puri Division
and another ....Applicants

-Versus-

Union of India & Others. ....Respondents

ORDER DATED- 12th October, 2012.

CORAM
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (ADMN.)
And
THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)

.....

This Original Application was filed by one Shri Golak Bihari Sahoo representing the All India Postal Extra Departmental Employees Union Puri Division in the capacity of Divisional Secretary and another Shri Rabindranath Mohapatra stating to be an affected employee due to the decision taken by the Respondent-Department. Their prayer, in this OA, is as under:

> "i) Quash the orders under Annexure-A/3 and A/6 and any other order passed behind the back of the Applicants reducing the TRCA and also the consequential orders effecting recovery from the TRCA of the month of October, 2011, November, 2011 and June, 2012 onwards of the applicants and member of the applicants Union.
>
> ii) Direct the respondents to restore the revised TRCA in respect of the applicants and refund/return the amount received from the TRCA of the members of the applicant union to the respective employees;

2. As an interim measure, they have sought the following order:

6

> "During the pendency of the present original application the respondents may be directed not to effect any recovery from the TRCA of the members of the applicants union."

3. This matter was listed on 8th October, 2012 in which notice was directed to be issued requiring the Respondents to file their counter. In so far as interim order is concerned, while granting the Respondents' Counsel, on request, fifteen days time to file their reply, it was directed, by way of ad interim measure, that no recovery from the TRCA of the Applicants shall be made.

4. Similar matter came up for consideration in OA No. 753 of 2012 wherein question of maintainability of the OA in the present form was discussed and vide order dated 11th October, 2012 it was ordered as under:

> "4. Sub Rule 5(b) of Rule 4 of the CAT (Procedure) Rules, 1987 empowers for grant of permission to an association representing the persons desirous of joining in a single application provided, however, that the **application shall disclose the class/grade/categories of persons on whose behalf it has been filed** (provided that at least one affected person joins such an application. In the present OA no Association of the employees has filed but this OA has been filed by the Union. No where in the OA or even any separate list showing the names who are the members of the aforesaid association and their class grade and category has been mentioned/enclosed. We also find that except stating Divisional Secretary of the concerned Union applicant No.1 has not disclosed his identity. He is also not an affected person. It is seen that recovery has been ordered due to over payment in individual capacity, at different rates varying from employee to employee and it is not a policy matter. The resolution filed does not disclose/bear the names of the members or their class/grade/categories. However, Mr. Rath, Learned Counsel appearing for the Applicant placed reliance on the order dated 9th October, 2012 in OA Nos. 742/2012 & 743/2012. But we see no justification to entertain this OA merely because in the above two cases notices have been issued and no recovery for 15 days was ordered. Hence this OA, in the present form is held to be not maintainable and is accordingly dismissed."

5. In view of the above, it was directed to list OA Nos. 742/2012 & 743/2012 for considering the question of similarity with the present OA on 12-10-2012 today. Accordingly this matter has been listed today.

6. Heard Mr. Trilochan Rath, Learned Counsel appearing for the Applicants and Mr. S.Barik, Learned Additional Standing Counsel, appearing for the Respondent-Department and perused the materials available on record vis-à-vis the OA No.753 of 2012. Mr.T.Rath, Learned Counsel appearing for the Applicants submitted that this Original Application has been filed in accordance with the provisions enshrined in Section 19 of the A.T. Act, 1985 and, therefore, the observation that OA No. 753 of 2012 is not maintainable in the present form is not correct. To maintain uniformity in the decision we have made a suo moto review of our earlier order. We find that there is no distinction/difference between OA No. 753 of 2012 and the instant OA. In view of our order passed in OA No. 753 of 2012 we consider that the order dated 8th October, 2012 in this case needs review. Accordingly the order dated 8th October,2012 in OA No. 743 of 2012 is recalled.

7. For the reasons discussed in order dated 10.10.2012 in OA No. 753of 2012 this OA in the present form is held to be not maintainable and is accordingly dismissed.

(A.K.Patnaik)
Member(Judicial)

(C.R.Mohapatra)
Member(Admn.)

KB, CM