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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 921 OF 2012

Cuttack the 6th day of September, 2013

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HON'BLE MR. A.K. PATNAIK, MEMBER(JUDL.)

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

Kanaka Sahoo, aged about 57 years, W/O. Late Akura @ Akura Sahoo, Ex-Works supervisor, Office of Deputy Chief Engineer/Con./D-II, East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist-Khurda. Permanent resident of Village-Washpadar, P.O/Via: Kalupada Ghat, P.S. Tangi, Dist-Khurda, Odisha.

...Applicant

(Advocates: M/s-N.R. Routray, S. Mishra, T.K. Choudhury, S.K. Mohanty)

VERSUS

Union of India Represented through -

1. General Manager, East Coast Railway, Rail Vihar, D-II, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
2. Senior Personnel Officer/Con/Coordination, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
3. Financial Advisor and Chief Accounts Officer(Con), East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
4. Post Master, Khurda Head Post Office, At/P.O/Dist-Khurda-752055.
5. Ppst Master, Kalupadaghat Post Office, At/P.O- Kalupadaghat, Dist-Khurda-752022.
6. Sr. Superintendent of Post Offices, Bhubaneswar Division, Bhubaneswar.

... Respondents

(Advocate: Dr.C.R. Mishra (Rly.) & Mr. P.R.J. Dash (ACGSC for Postal))



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ORDER

(Oral)

A.K. PATNAIK, MEMBER (JUDL.)

The Applicant is the widow of Late Akura Sahoo, Ex- Works supervisor, under the Respondents-Railways. She has filed the instant OA seeking quashing of order dated 10.08.2012 and refund of the amount already recovered from her pension. The said order dated 10.8.2012 reads as under:

“Sub: Excess payment of Rly. Pension to Kanak Sahoo PPO No-07020067001/11925/9397 (SB A/C No.297610).

It is to intimate that Kanak Sahoo above Rly. pensioner has been authorized for enhanced Rly. Pension upto 17.7.2010 @ 6215+DR and normal Pension @ 3729 + DR w.e.f. 18.07.2010. Kindly recover and credit in UCR Rs.94454/- toward excess payment of SE Rly. Pension from 18.7.2010 to 31.7.2012 per month Rs.5000/- starting from the month of Aug – 2012

Her Rly Pension wef 01.08.2012 is detaild below:-

Basic Pension	= Rs.3729/-
DR 65%	= Rs.2424/-
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Total	= Rs.6153/-(Six thousand one hundred fifty three only)”

2. It is the case of the applicant is that after the death of her husband she has submitted the required documents before the Railway Authorities for grant of family pension and payment of DCRG accrued to her ^{late R} ~~her~~ husband. Accordingly, the Respondents issued the PPO and granted family pension in her favour. While she was in receipt of family pension she was issued with an order dated 10.08.2012 for deduction/recovery of Rs.5000/- p.m. from her monthly pension. The applicant has stated that she being an illiterate lady and the family pension being her only source of livelihood the order of recovery without putting her any notice is bad in law. Further case of the Applicant is that excess amount

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if any paid to her was due to the fault of the Respondents and, therefore, she should not be penalized by way of recovery. Hence he has prayed for quashing of the impugned order of recovery.

3. Per contra the Respondents have filed their counter opposing prayer of the applicant. Respondents' stand in the counter is that ~~as per~~ ^{per} provisional PPO was issued for payment of family pension at enhanced rate to the applicant up to 17.07.2007. However, as per the subsequent order issued by the Ministry of Personnel Public Grievance and Pension, New Delhi, Govt. of India vide letter dated 03.10.08 the periodicity of enhanced pension was raised to 17.07.2010. Thus according to Respondents the applicant was due to receive enhanced family pension up to 17.07.2010, which, however, ^{was} erroneously paid to her up to 31.07.2012. The mistake ^{has} been detected subsequently it was decided to recover the excess payment made to the tune of Rs.94,454/-. It is the further case of the Respondents that when this matter was detected the pension disbursing authority i.e., the Post Master Khurda Head Post Office instructed the sub Post Master Respondent No.5 to recover the excess paid Government dues @ Rs.5,000/- (Five Thousand) per month vide letter dated 10.08.12 under intimation to the applicant. It has been submitted that the applicant requested Respondent No.5 to credit Rs.3,000/- (Three Thousand) per month instead of Rs.5,000/- (Five Thousand) as fixed by the Respondent No.4 and accordingly the applicant credited Rs.12,000/- out of Rs.94,454/- from August, 2012 to November, 2012. The main thrust of the counter is that the applicant is entitled to enhanced

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pension up to 17.7.2010 and whatever amount in excess has been paid up to 17.7.12 is ~~not~~ ^{be} liable to be recovered. Applicant has filed rejoinder more or less taking the stand taken in the OA.

4. We have heard Mr.N.R.Routray, Learned Counsel for the Applicant, Dr.C.R.Mishra, Learned Counsel panel Counsel appearing for the Railway-Respondents and Mr.P.R.J.Dash, Learned Additional CGSC appearing for the Postal Department and perused the records.

5. During the hearing it was fairly submitted by Mr.Routray, Learned Counsel appearing for the Applicant as the applicant had no contribution on the excess payment made to her the amount having ^{been} received and already spent recovery would cause heavy finance hardship to the applicant. This was contested by Mr.P.R.J.Dash, Learned Additional CGSC appearing for the Postal Department by stating that be that as it may the amount which was paid to the applicant was not due to her but was due to oversight and as such, there is no wrong in recovering the same from the family pension of the applicant as per the writing given by the applicant herself. However, the main grievance of the applicant that before ordering ^{be} recovery the applicant should have been given a notice giving the breakup of the amount paid in excess in compliance with the principles of natural justice. Having not given the said details the action of the Respondents is not sustainable in the eyes of law.

6. Be that as it may since the amount paid to the applicant was not due to her and the same was paid to the applicant by oversight the applicant is liable to

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refund the excess amount paid to her but the question for consideration ^{is that} but the amount sought to be recovered from the applicant should be calculated in such a manner which should not cause hardship to the applicant. Hence, after giving due consideration to various arguments advanced by the respective parties we remit the matter back to Respondent No.6 who should first give month wise breakup of the amount which the applicant was entitled to but how much amount has been paid in excess which needs to be refunded/recovered within a period of fifteen days and on receipt of the same the applicant should furnish her consent specifying the quantum of the amount, if recovered would not cause any hardship to her, but the same should not in any event ^{be} less than Rs.3000/- as already given in writing by her within another fifteen days and thereafter, the Respondents, No.4 to 6 may act accordingly.

7. With the above observation and direction this O.A. stands disposed of.

No costs.



(R.C. MISRA)
ADMN. MEMBER



(A.K. PATNAIK)
JUDICIAL MEMBER