

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O. A. NO. 507 OF 2013
Cuttack, this the 26th day of August, 2014

CORAM

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

Basant Kumar Guru,
aged about 45 years,
S/O Sri Gopinath Kanhar Guru, GDSMD
At/Po: Komand B.O, Dist: Nayagarh.

...Applicant

(Advocates: M/s- P.K. Padhi, J. Mishra)

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. Sr. Superintendent of Post Offices,
Puri Division,
At/Po/Dist-Puri-752001

... Respondents

(Advocate: Mr. D.K. Behera)

ORDER

R.C.MISRA, MEMBER(A)

Applicant in the present O.A. is working as GDSMD in the Department of Posts. He has approached this Tribunal for quashing Annexure-A/2 and for direction to be issued to Respondents not to make any recovery and to refund the

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amount already recovered with 18% interest, with further prayer to protect his TRCA.

2. Facts of the matter are that the Respondent-Department made a re-fixation of TRCA of the applicant on the basis of reduction of his workload and accordingly, recovery was started from his TRCA from February, 2013. He made a representation dated 12.2.2013 to the Superintendent of Post Offices, Puri Division (Res.No.3), in order to enquire about the reasons for such reduction and to refund the amount already recovered. Having received no response, applicant had moved this Tribunal by filing O.A.No.238/13 challenging the order of recovery. The Tribunal, vide order dated 25.04.2013 disposed of that matter with direction to Respondent No. 3 to dispose of the pending representation and communicate the decision in a well-reasoned order to the applicant. It was also directed that until the representation is disposed of no further recovery from the TRCA of the applicant should be effected. In compliance of the above direction, Respondent No.3 vide Memo dated 15.07.2013 rejected the representation of the applicant which is placed at Annexure-A/2 of the O.A. Against this memo, applicant has approached the Tribunal in the present O.A. seeking relief as referred to above.

2. Respondents have filed a detailed counter in this case opposing the prayer of the applicant. They have submitted that the wage structure of Gramin Dak Sevak(GDS) working in the Department of Posts has been revised with effect from 01.01.2006 based upon the implementation of recommendations of R.S.Natraj Murthi Committee. The decision of the Government of India regarding implementation of the recommendations of the same Committee was communicated to the CPMG by a letter dated 16.10.2009. It was also instructed

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that the Time Related Continuity Allowance of all the GDSs will be fixed with reference to their existing workload, basic TRCA drawn as on 1.1.2006 and cent percent verification of TRCA shall be carried out by the Circle Postal Accounts Office. As a result of the implementation of this instruction, cent per cent verification of TRCA was conducted by the Director of Postal Accounts, Cuttack. In respect of the applicant an amount of Rs.9551/- was found to be paid in excess between the period 1.1.2006 and 30.9.2009 and accordingly, recovery was effected. They have submitted in the counter that in compliance of the directions of the Tribunal in the earlier O.A., Respondent No.3 has already disposed of the representation made by the applicant and rejected the same since it did not have any merit. The Respondents have further contended that anticipating a situation that excess payment might have been made, an undertaking was obtained from the applicant to the effect that any excess payment found to have been made as a result of incorrect fixation of TRCA or any excess payment detected in the light of discrepancy noticed subsequently will be refunded or adjusted against future payments. It is the submission of the Respondents that in spite of giving an undertaking the applicant is creating trouble for the Department by making representations and also by filing O.A. before the Tribunal. On these grounds they have prayed that the O.A. should be rejected being devoid of merit.

3. Having heard the learned counsel for both the sides, I also perused the records.

4. Shri P.K.Padhi, during the course of hearing submitted that the grievance of the applicant is that he was not given even any prior notice of recovery of this amount nor was he afforded an opportunity to make any representation against the same. No reasons for reduction in the TRCA and also the proposed recovery



were given to the applicant while issuing the order of recovery. His only submission is that reasons for the action taken by the Respondents should have been explicitly stated and communicated to the applicant before effecting recovery. Applicant has been prejudiced because of the fact that the Respondents have never intimated the detailed reasons for reduction in TRCA and the consequent recovery.

5. On the other hand, learned ACGSC has submitted that the applicant has already given an undertaking at the time of fixation of his TRCA that any excess payment to be detected later would be recovered from his TRCA. The present cent percentage check of the workload has been done in pursuance of the recommendations of R.S.Natraj Murthi Committee report. Having given an undertaking to the effect as stated above, applicant has no ground to approach the Tribunal challenging the order of recovery.

6. I have considered the rival submissions. It reveals that the ⁱⁿ ~~vide~~ letter dated 21.12.2012 ~~has been~~ issued by the Director of Accounts (Postal), Cuttack to the SSP, Puri Division recovery from TRCA in respect of several GDS employees has been proposed with the indication of specific amount against each. It further reveals that whereas against some GDS employee some amounts has been added against some employees some amount has been deducted. It is clarified therein for taking immediate action in the matter of recovery of the overpayments and the payment of arrears accordingly.

7. A question was asked to the learned ASCGSC whether the concerned employees were given intimation of the amount that was to be deducted from the TRCA before the recovery was effected. The learned ASCGSC has clarified that

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letter dated 21.12.2012 is only an internal communication and therefore, applicant in the present case was not aware of the amount to be recovered from his TRCA.

8. There is no doubt that the applicant has already furnished an undertaking that any over payment which has been made to him will be recovered. The Respondents have every right to decide the TRCA according to the guidelines which have been enforced by the Department of Posts and therefore, their authority in this matter cannot be challenged. However, learned counsel for the applicant fairly submitted that the employee has a right to know the exact reasons for reduction and recovery of TRCA. I also find that the Department at no point of time have communicated to the applicant about the proposed recovery. Even if the order of recovery is finally passed, the exact amount that is to be recovered has to be also justified according to laid down criteria. Arbitrariness in the administration as far as possible should be avoided. In the present case when the Director of Postal Accounts intimated the exact amount of recovery to the Respondent No.3, this information could have been revealed to the applicant so that he would have put forth his grievance in the matter.

9. In the case of Krishna Swami vs. UOI & Ors. [AIR 1993 (SC) 1407], the Hon'ble Supreme Court has observed 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".



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10. In view of the above discussion, the matter is, therefore, remanded to Respondent No.3, SSPO, Puri Division with a direction to intimate the exact amount of recovery from TRCA of the applicant along with the detailed reasons for doing so within a period of 30 days from the date of receipt of this order and in such eventuality, if the applicant makes any representation in this regard, 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 representation.

Ordered accordingly.

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


(R.C.MISRA)
MEMBER(A)

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