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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O. A. NO. 682 OF 2013
Cuttack, this the 26th day of August, 2014

CORAM

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

Sri Purnachandra Sahoo,
aged about 57 years,
S/O Late Benu Sahoo,
At/Po: Kunjuri, Via: Palahat,
Dist: Khurda
working as GDSMD I/CBPM-cum-MD Kunjuri B.O.

...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. S. Barik)

ORDER

R.C.MISRA, MEMBER(A)

Applicant in the present O.A. is working as GDSMD under the Department of Posts and has approached the Tribunal challenging the order of recovery from



his TRCA. He has, therefore, prayed for direction to the Respondents not to effect any recovery and on the other hand, refund the amount already recovered along with 18% interest.

2. Facts of the case are that the Respondents started recovery from the TRCA of the applicant for the period from January, 2013 without an opportunity being given to him to put forward his defence and therefore, the applicant has called in question the legality of such recovery being violative of the principles of natural justice.

3. According to applicant, when the recovery was effected, applicant made a representation to Respondent No.3 SSPO, Puri Division mentioning that he has never misrepresented anything before the authorities and the benefits which he has been enjoying should not be reduced now without affording an opportunity of being heard in the matter. It is further stated that as his representation to the authorities did not yield any result, he has, therefore, approached the Tribunal in the present O.A. praying for the relief, as referred to above.

4. Respondents in their counter affidavit have stated that ^{the} ~~whereas~~ the wage structure of GDS working in the Department of Posts has been revised with effect from 1.1.2006 on the basis of the recommendations of R.S.Natraj Murthy Committee. Therefore, the instructions were issued for fixing TRCA of all the GDS with reference to the existing workload from 1.1.2006 and conduct cent percent verification of TRCA by the Circle Postal Accounts Office. At the time of the cent percent verification conducted by the Director of Postal(Accounts), Cuttack, it was noticed that an amount of Rs.11,786/- was over paid to the applicant from 1.1.2006 to 30.9.2009 and therefore, such amount was recovered from TRCA

Recd

from November, 2011 onwards. The case made out by the Respondents is that prayer made by the applicant before the Tribunal is, therefore, without any justification.

5. On the other hand, learned counsel for the applicant has mainly drawn my attention ^{to the fact R} that the recovery effected by the Respondents from the TRCA being violative of the principles of natural justice as prior to such recovery no opportunity of being heard was afforded to the applicant, the Respondents should be directed to refund the amount already recovered and not to effect any further recovery.

6. Replying to the above, learned ASCGSC for the Respondents has submitted that at the time of fixation of TRCA, applicant had given an undertaking that any excess paid shall be recovered from his TRCA. Therefore, further notice was not required to be served on the applicant.

7. Having heard the learned counsel for both the sides, I have also perused the records. It reveals from the record that Director of Postal Accounts has intimated Respondent No.3 vide letter dated 25.9.2012 in which against 33 GDS employees including the applicant excess paid amount has been sought to be recovered from the TRCA. It has been directed that the amount should be immediately recovered as per the calculations made. On being asked whether it was only an internal communication or the applicant was informed about the same, the learned ACGSC clarified that it was only an internal communication and no prior notice was given to the applicant regarding the amount sought to be recovered.



8. I have considered the matter carefully. There is no doubt that the authorities are within their competence to make recovery from the TRCA as per the calculations they have made based upon the guidelines of the Department. It is also a fact that the applicant has given an undertaking that any excess payment made would be recovered from his TRCA. Having said that one cannot ignore compliance of the principles of natural justice. Had the applicant been given an opportunity of being heard or shown ^{his} cause in the matter, nothing would have prevented the Respondents to effect recovery from the TRCA after having disposed of his defence as per the extant rules and instructions. Therefore, I cannot but hold that there has been a sheer violation of the principles of natural justice by the reason that before effecting recovery no opportunity was given to the applicant to have his say in the matter. In this connection, the Hon'ble Supreme Court in Krishna Swami vs. UOI & Ors. [AIR 1993(SC) 1407], 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".

9. 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, 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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