

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/00479 of 2014

Cuttack this the 23rd day of September, 2015

CORAM

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

Golekh Chandra Jena aged about 63 years S/o Late Laramanda Jena At/PO Naharkanta, Baliana, District Khurda, presently working as GDS BPM Naharkanta B.O. Baliana, District Khurda.

...Applicant

By the Advocate(s)- Mr.D.P.Dhalasamant

-VERSUS-

- 1- Union of India represented through its Director General of Posts Government of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi – 1.
- 2- Chief Post Master General, Orissa Circle, Bhubaneswar, Dist.Khurda-01.
- 3- Sr.Superintendent of Post Offices, Bhubaneswar Division, At/PO Bhubaneswar, District –Khurda – 01.
- 4- Assistant Superintendent of Post Offices, Bhubaneswar (N) Sub Division, AT/PO Bhubaneswar, District Khurda – 01.
- 5- Sr.Postmaster, GPO, Bhubaneswar, At/PO Bhubaneswar, Dist.-Khurda-01.

...Respondents

By the Advocate(s)-Mr. D.K.Mallick

ORDER

R.C.MISRA, MEMBER(A):

The applicant, who is working as GDSBPM, Naharkanta B.O. under the Department of Post, has filed this O.A. making a prayer that the order dated 2nd June, 2014 annexed as Annex.A/9 to the O.A., may be quashed and a direction may be issued to the respondent – authorities to grant TRCA attached to the post of GDSBPM, Naharkanta, for the period from 20th April, 2010 to 12th August, 2012.

2. The facts involved in this O.A. are that the applicant joined as EDBPM which was later re-designated as GDSBPM, at Naharkanta B.O. in account with Baliana Sub Post Office under the Bhubaneswar GPO after being selected and appointed by the Senior Superintendent of Post Offices, Bhubaneswar, who has been arrayed as respondent No. 3 in this O.A. He is still continuing against this post. While the applicant was working in this post, he was directed by the respondent No. 4, i.e. the Assistant

Superintendent Post Offices, Bhubaneswar, vide order dated 16th April, 2010 (Annex.A/1) to take over the detailed charges of the post of GDSBPM, Pahala B.O. by providing his substitute in his original place of posting at Naharkanta B.O. In compliance of this order of the administrative authorities, applicant joined as GDSBPM Pahala B.O. on 20th April, 2010 by providing a substitute in his place. The grievance of the applicant arose from the fact that in the month of July 2012 Rs. 500/- was deducted from his salary and being so affected, he submitted a representation to respondent No. 5 i.e. Senior Post Master, GPO, Bhubaneswar on 2nd August, 2012 requesting him to intimate about the reasons for such deduction. Subsequently, the regular incumbent at Pahala B.O. joined his duties and, therefore, the respondent No. 4, by an order dated 4th August, 2012 relieved the applicant from Pahala B.O. which was effected on 12th August, 2012. On being relieved from Pahala B.O., applicant joined his original post of GDSBPM, Naharkanta B.O. on 13th August, 2012. With regard to the grievance of deduction from the salary in respect of the applicant, the Senior Superintendent of Post Offices directed the Senior Post Master of Bhubaneswar G.P.O., to dispose of the representation of the applicant as per the Gramin Dak Sevak (Conduct and Engagement) Rules, 2011. Again the applicant preferred a representation to the Senior Superintendent of Post Offices, Bhubaneswar on 8th November, 2012 in which he submitted that he was directed to work as GDSBPM at Pahala B.O. from 20th April, 2010 and, he carried out the orders by providing a substitute at Naharkanta B.O. The applicant was relieved from the post at Pahala B.O. on 12th August, 2012 after handing over charge to a regular GDSBPM. He then joined back as GDSBPM, Naharkanta B.O. The prayer of the applicant in the representation was for protection of his salary during the period he worked at Pahala B.O. and to



refund the amount which was deducted from his salary during July 2012 to November 2012. He made another representation to the Chief Post Master General, Odisha, making a prayer that the amount so recovered, should be refunded to him since recovery was unjustified. Thereafter by making an application under the R.T.I. Act, he received information dated 20th May, 2013 that he was entitled to draw minimum TRCA applicable to the post of GDSBPM, Pahala B.O. during his period of temporary working. The reduced drawal of monthly TRCA was due to the recovery of over paid amount in suitable instalments by the Senior Post Master, Bhubaneswar. The applicant also got a communication dated 24th December, 2013 from the Assistant Director, Office of the Chief Post Master General, Odisha, in which it was mentioned that after examination of the matter, it was found that recovery of TRCA was in order. Being aggrieved the applicant filed **OA No. 45/2014** in which this Tribunal, by an order dated 7th February, 2014 passed at the stage of admission, remitted the matter back to respondent No. 2, to reconsider the points raised by the applicant in his representation dated 21st May, 2013 in a well reasoned order. In compliance of this order of the Tribunal, the respondent No. 2 passed an order dated 2nd June, 2014 placed as Annex.A/9, which has been challenged by the applicant in this second round of litigation.

3. The respondents have filed a counter affidavit in this case in which they have admitted that the applicant was originally recruited for the post of GDSBPM, Naharkanta B.O. in account with Baliana Sub Post Office under Bhubaneswar GPO and he joined this post on 14th April, 1972. The applicant was transferred from Naharkanta B.O. to Pahala Branch P.O. as a stop-gap arrangement between 20th April, 2010 to 12th August, 2012. This was necessitated because the employee working as GDSBPM



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✓ Pahala Branch Post Office was shifted to Rasulgarh S.O. because of a ban on recruitments due to which, number of vacancies in the GDS post had arisen and, therefore this stop gap arrangement was required to be made in the public interest. Further, the applicant was treated as a new entrant at Pahala B.O. and his TRCA was drawn at the minimum level i.e. Rs. 2745-50-4245. The applicant was getting the TRCA of Rs. 3660-70-5760 in his regular place of posting at Naharkanta B.O. The Senior Post Master noticed that the applicant's TRCA was being drawn at higher rate of TRCA that he was drawing at Naharkanta and decided for ordering recovery of the excess paid TRCA from his salary in suitable instalments. This decision is defended in the counter affidavit by the respondents by arguing that, as a settled principle the TRCA of a GDSBPM is fixed to the post. The TRCA of Naharkanta B.O. is Rs. 3660-70-5760 which the applicant was regularly drawing but when he joined at Pahala B.O. the TRCA attached to this post being Rs. 2745-50-4245 would be admissible in case of the applicant and, therefore, the order of recovery is fully justified. The respondents' submission is that applicant has worked at Pahala B.O. as a GDSBPM from 20th April, 2010 to 12th August, 2012 for which he was entitled to the minimum TRCA of that post. It was noticed that erroneously TRCA was drawn ^{on R} at a higher side and when this error was detected, the excess paid TRCA was recovered in suitable easy instalments.

4. No rejoinder has been filed by the learned counsel for the applicant in this case.
5. I have heard the learned counsel for both sides and perused the records of this O.A.
6. I have also gone through the written note of arguments filed only by the learned Additional C. G. S. C. on behalf of the respondents. The main argument mentioned by



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the learned Additional C.G.S.C. is that the TRCA of a Gramin Dak Sevak is fixed to a specific post and, it does not change at different points of time if different persons are appointed/ordered to function in this post and therefore, the decision of recovering the amount from the TRCA is justified. The learned counsel for the applicant on the other hand, has relied upon the fact that applicant has been functioning in his regular post of GDSBPM, Naharkanta B.O. from the year 1972. He worked as GDSBPM Pahala B.O. for the period from 20th April, 2010 to 12th August, 2012 after the directions of the respondent No. 4 i.e. the Assistant Superintendent of Post Offices, Bhubaneswar. Therefore, the TRCA that he drew at Naharkanta B.O. should be protected during this period also and the minimum TRCA for new provisional appointment is not applicable in his case since he has never been appointed newly on provisional basis as GDSBPM at Pahala B.O. Thus, the issue for resolution in this O.A. is, whether applicant is entitled to the protection of his remuneration during the period he performed his duties at Pahala B.O. The basic principle that needs to be applied in this case is that the administrative authorities should not pass any order which would cause prejudice to the entitlements of an employee. In the present case, there is nothing on record to prove that the applicant was ever given any opportunity to know that he will draw TRCA at the new provisional appointment level at Pahala B.O. He has been shifted to Pahala B.O. by an administrative order in public interest. The Department is very much within its authority to do so; however, it has no authority to cause prejudice to financial entitlements of an incumbent who was drawing higher TRCA at Naharkanta B.O. where, he was serving since 1972. It is, therefore, utterly unjustified to treat him as a new entrant at Pahala B.O. The facts of the matter are also that the applicant provided a substitute at his own place at Naharkanta B.O. and, this substitute must



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have been paid at the minimum of the TRCA. Therefore, the argument that TRCA of a particular post can never be changed irrespective of the person posted there falls to the ground. A person who is transferred from his regular post on a stop-gap arrangement to another post, needs to enjoy a protection and, in case it is not provided, it will be reasonably assumed that his financial interest and entitlements are negatively affected. It comes-out from record that applicant has also been relieved from Pahala B.O. so as to join his regular place of posting i.e. Naharkanta B.O. For the period that he worked at Pahala B.O. i.e. from 20.04.2010 to 12.08.2012, he is entitled to be given the said TRCA that he was enjoying at Naharkanta B.O. before joining at Pahala B.O. on a stop-gap arrangement, as a temporary charge. In the circumstances, the impugned order dated 2nd June, 2014 (Annex.A/9) is quashed. The respondent authorities are, therefore, directed to ensure that any amount that has been recovered from the TRCA of the applicant on the ground as discussed above, should be refunded to him within a period of two months from the date of receipt of this order.

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7. The O.A. is allowed as above. No costs.


(R.C.MISRA)
MEMBER(A)