

15

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No.260/00574/2014

Cuttack this the 10th day of March, 2015

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

.....
Chandrakanta Mishra aged about 59 years S/o Shri Kanduri Mishra, At/PO Chatrachakada Via Derabish. District Kendrapada. At present working as GDSMC/MD, Chatara Chakada Branch Post Office in account with Derabish SO, Kendrapara.

...Applicant
(Advocate: Mr.T.Rath)

VERSUS

1. The Union of India represented through the Secretary, Department of Post, Govt. of India, Sansad Marg, New Delhi-110 001.
2. The Chief Post Master General, Orissa Circle, Bhubaneswar, At/Post Bhubaneswar, District Khurda.
3. Sr. Accounts Officer in the office of Director of Accounts (Postal), Mohanadi Vihar, Cuttack.
4. The Superintendent of Post Offices, Cuttack North Division, At Cantonment Road, Cuttack Pin 753 001.
5. Postmaster, Kendrapada HO, At/Post District Kendrapada.

... Respondents
(Advocate: Mr. M.K.Das)

O R D E R

BY THE COURT :

The applicant of this O.A. is working as GDSMC/MD at Chatara Chakada Branch Post Office in the District of Kendrapara and has approached this Tribunal seeking the following reliefs :-

"i) Quash the orders under Annexure A/2, A/7 series and Annexure A/10 and consequential reduction of TRCA plus recovery of Rs. 1000/- from the salary of the applicant starting from the month of July 2012 till now and all other consequential orders passed thereto.



ii) Direct the respondents to restore the TRCA in respect of the applicant from January 2006 and refund / return the amount illegally recovered from the TRCA of the Applicant and Pass any order or orders giving complete relief to the applicant."

2. The short facts of this matter are that the applicant was appointed as EDMC, Chatara Chakada Branch Post Office in account with Derabish SO, Kendrapara on 18th June, 1973 and *if sub* consequently, was given the charge of the post of GDSMD w.e.f. 18th September, 2007 in addition to his own duties as EDMC and was accordingly paid the combined duty allowance from the date of his assuming charge of the said posts. However, even though he is performing additional duties of GDSMD, respondent No. 3 vide its order dated 14th June, 2012 has given a direction to the Superintendent of Post Offices, Cuttack Division, Cuttack, to recover excess paid amount as verified during the verification of the TRCA of GDS officials, from the salary of the applicant. This order has been enclosed at Annex. A/2 of this O.A. concerning 19 GDS officials wherein, the name of the applicant figures at Sl.No. 11 and amount sought to be recovered has been indicated as Rs. 12,350/-. As a result of this order, respondents are deducting a sum of Rs. 1,020/- per month from the month of July 2012 from the applicant.

3. It has been set-out in the OA that the Ministry of Communication and I.T., Department of Posts, by its Notification No. 6-1/2009-PE.II dated 9th October, 2009 (Annex.A/3) accepted and decided to implement the Recommendations of One Man Committee set-up under Shri



R.S. Nataraja Murti. The Notification laid down that the revised TRCA for the post of GDS will be fixed as per the following principle :

"Basic TRCA as on 01.01.2006 plus 5% increase as on 01.04.2004 multiplied by a factor of 1.74 and then adding 40% fitment as arrived at the 20th stage of revised TRCA and fixation at next above stages in the revised slab of Time Related Continuity Allowance".

4. It was further provided that arrears of TRCA from 1.1.2006 to 30.9.2009 shall be paid in cash in two instalments of 40% and 60% spreading over the financial years 2009-2010 and 2010-2011. It was provided that the entire process of fixation of TRCA in the new slab and calculation of the arrears should be completed immediately so as to ensure payment of first instalment of the arrears by 31.10.2009. Besides above, the Notification specifically provided that the Circle Postal Accounts Office shall carry-out cent-percent verification of TRCA subsequent to the revision and entire process of verification shall be completed by 31.03.2010.

It is the contention of the applicant that cent percent verification was directed in order to avoid any future complication in disbursing the 60% of the arrears and also to find out any irregularity in ~~dispersal~~ ^{disbursement of} dispersal of 40% arrears. The intention of the notification was not to cause an inquiry into justifiability of the already fixed rate of TRCA in the old pre-revised scale of the existing employee. In the present case, the authorities have already fixed-up the current TRCA of the applicant and paid both 40% and 60% of the arrears as per the time schedule fixed by them. The applicant has already spent



the amount so as to meet his day to day requirements and therefore, it is his plea that any recovery at this stage will cause immense hardship to him. Applicant's case is that being shocked and surprised by the reductions made from his TRCA, he submitted a representation to the Chief Post Master General of Odisha Circle making a prayer therein that no such recovery should be made. But since his representation was kept pending by the Chief Post Master General, the applicant approached this Tribunal in OA No. 84/2014 which was disposed of by this Tribunal by giving a direction to the respondent No. 2 to consider the pending representation. The respondent No. 2 considered the representation and rejected the same allegedly in a casual manner without discussing the points raised and even without examining the relevant records. This order of the respondents has been filed as Annex.A/10 to this O.A. In this order which is under challenge in the present O.A., the Chief Post Master General has observed that as per the statistics collected and examined by the Superintendent of Post Offices, Cuttack, North Division, Cuttack, the workload of the GDSMC, Chatra Chakroda BO, comes to 01 Hrs. 28 Minutes. Basing on the workload, the TRCA of the applicant was fixed in the scale of Rs. 2870-50-4370 which was duly verified by the Director of Accounts (Postal), Cuttack. The applicant challenges the calculation of the work load. It is his contention that he is required to start from Chatra Chakroda BO at 09:30Hrs with BO Bag and reach Derabish at 10:00Hrs and again he is to leave Derabish SO at 12:30 Hrs and reach



Chatara Chakada BO at 13:00 Hrs. Further, as per Marathvar
Time Test, 10 minutes time is allowed to the applicant for
exchanging bags at the time of start and arrival at Chatara
Chakada BO. That apart further 10% is to be added as
coefficient to arrive at the total duty hours. Therefore, the duty
hours as per the records of the respondents come to 03 hours
and 50 minutes and the applicant is entitled to the TRCA Scale
of Rs. 3635-65-5585 for GDSMC duties. This is ^{the} main
contention of the applicant that the calculation of the work-load
by the respondent-authorities is not accurate as per his work
performance.

5. On the other hand, the respondent- authorities have filed
their counter affidavit in which they have averred that the
Department of Post had constituted a One Man Committee vide
resolution dated 23.07.2007 to examine the system of Extra
Departmental Post Offices and Wage Structure of Gramin Dak
Sevaks. This Committee submitted its report on 29.10.2008
and the Government after careful consideration of the report has
decided to implement the recommendations of the Committee
vide Government of India, Department of Posts, letter dated
9.10.2009. Thereafter, the applicant's TRCA was revised by the
appropriate authority and arrears were drawn and paid to the
applicant in two instalments of 40% and 60% by spreading over
the financial years 2009-2010 and 2010-2011 respectively. An
undertaking in the prescribed format was also obtained from the
applicant before disbursement of the first instalment wherein,
the applicant gave in writing that in the event of incorrect



19 6
fixation of his TRCA, or any excess payment detected will be refunded by him to the Government. Subsequently, the Director of Postal Accounts carried out cent percent verification of fixation of TRCA as a result of revision in respect of all GDSSs including the applicant. Since excess payment of arrears was detected, orders were passed for the recovery of the same from monthly TRCA of the applicant. In the counter affidavit, it is further submitted that while disposing of the OA No. 84/2014 filed by the applicant, the Tribunal at the stage of admission, directed the respondent No. 2 to consider the representation preferred by the applicant on 21.05.2013 and the respondents have disposed of the same by a reasoned order and communicated its outcome to the applicant. It is contended by the respondent in their counter affidavit that the order passed by the Tribunal has been duly complied with and after due consideration of the representation in the light of the extant rules, respondent No. 2 had passed a reasoned order on 9.4.2014 rejecting the prayer of the applicant. It is further submitted in the counter affidavit that once the applicant has given an undertaking that if excess amount is detected, the same shall be recovered from him, he has no right at present to agitate this matter before the Tribunal.

6. I have heard the learned counsels for both the sides and perused the record carefully.

7. ~~Apparently~~ ^T this is second round of litigation before this Tribunal. In the first round, as indicated above, the Tribunal directed respondent No. 2 to consider and dispose of the



pending representation of the applicant and in compliance thereto, they have rejected the representation of the applicant by a reasoned order dated 9.4.2014. The crux of the issue is the work-load of the GDSMC, Chatara Chakada BO. The Chief Post Master General has observed that as per the statistics collected and examined by the Superintendent of Post Offices, Cuttack North Division, Cuttack, the workload of the GDSMC, Chatra Chakroda BO comes to 01 Hrs. 28 Minutes. The applicant at Para 17 of the OA has claimed that his workload is 03 hours and 50 minutes and to substantiate his claim, he has also given the details of his work. The speaking order further reveals that the Chief Post Master General has gone by the statistics collected by the Superintendent of Post Offices duly verified by the Director, Postal Accounts and he has not at all examined the records. He has decided not to give personal hearing to the applicant. However, in the present case, the work-load being specifically contested, it was not only required of the Chief Post Master General to verify the records by himself but also to give applicant an opportunity of personal hearing so that the applicant's claim of 03 hours and 50 minutes of work-load could have been satisfactorily dealt-with. The respondents after all, are the best judge to dispense ~~with~~ justice to the applicant by examining the veracity of his claim as regards the work-load and it is not proper for the Tribunal in all such cases to go down to the details of the statistics collected about the work load when there are designated authorities empowered to do this work and they are also equipped with the

guidelines applicable to such cases. When an employee raises questions about the statistics of work-load though it has been verified by the respondents, still then he has a right to ventilate his grievance to the higher authorities. Undoubtedly, satisfactory redressal of grievances of an individual employee enhances the mutual confidence of the staff between higher and lower levels of bureaucracy. If there is a specific point of grievance about the work load being agitated by the applicant that point should be first looked into by the Chief Post Master General specifically and after specific examination on this issue, a patient hearing to the applicant is equally essential so as to arrive at a correct and fair decision and not otherwise. It is noticed in the present case that the entire counter affidavit is built-up on the argument that the applicant has given an undertaking that any excess payment made to him shall be recovered from him. But such an undertaking shall not prevent or preclude him from raising a grievance regarding the actual calculation of the work load and also the fixation of revised TRCA on the basis of such work load. According to the undertaking the authorities are ofcourse within their powers to make recoveries of excess payments detected from the applicant. However, if there is a grievance raised, principle of natural justice demands that the specific grievance should be examined by the authorities.

8. Before coming to the conclusion, one basic point which has struck to my mind is that if according to respondents the work-load of GDSMC Chatara Chakada B.O. works out to 01



Hours and 28 Minutes, then the question comes up for determination is that what was the duration of workload based on which TRCA had been calculated, arrears drawn and disbursed in favour of the applicant from 01.01.2006 to 30.09.2009, which having been reduced, excess amount of arrears is sought to be recovered. This vital point though was required to be revealed by the respondents either while disposing of the representation of the applicant or in the counter reply, to exhibit transparency in their action, yet for the reasons best known, they have not made it conspicuous.

9. In view of the above discussions, the matter is remitted back to the respondent No. 2 i.e. the Chief Post Master General, Odisha to re-consider the specific grievance of the applicant in the matter of calculation of work-load which happens to be the basic issue of this O.A. in the light of what has been observed in this order. This re-consideration should be made after a personal verification of the official records and after affording the applicant an opportunity of personal hearing. Thereafter, respondent No. 2 shall take an appropriate decision and pass a reasoned and speaking order communicating the same to the applicant within 90 days from the date of receipt of a copy of this order. In the circumstances, Order dated 9th April, 2014 (Annex.A/10) is set aside

10. The O.A. is thus disposed of without any order as to costs.


[R.C.MISRA]
Member (A)