

**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION No. 278 OF 2006

Date of Order :17.02.2010.

CORAM:

HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER

Kashi Dayal S/o Late Sh. Prabhu Dayal, aged about 46 years, resident of Ward No. 32, Balmiki Basti, Mochiwara, Churu, at present employed on the post of Sweeper, Group D, in the Head Post Office, Churu (Rajasthan).

....Applicant.

For Applicant - Mr. J.K.Mishra, Advocate.

VERSUS

- 1- Union of India through Secretary to Government of India, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
- 2- The Chief Post Master General, Rajasthan Circle, Jaipur.
- 3- The Post Master General, Western Region, Jodhpur.
- 4- Superintendent of Post Office, Churu.
- 5- Head Post Master, Head Post Office, Churu.

...Respondents.

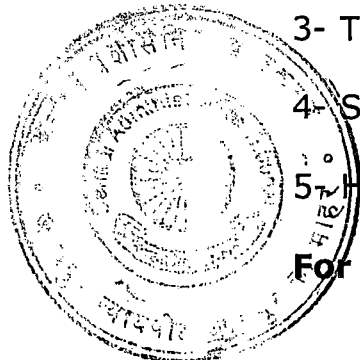
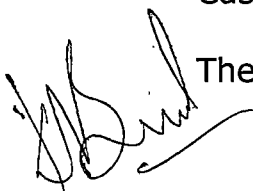
For Respondents- Mr. M. Godara for Mr. V. Mathur, Advocate.

**.....
ORDER
(BY THE COURT)**

The applicant complains that illegally and irrationally, the amount due to him which had been legally paid, is now sought to be collected but he challenges this.

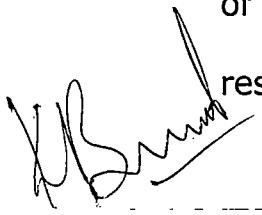
2- The applicant was a Casual Labourer. He was regularized as a temporary Group 'D' employee and thereupon, he became entitled to receive the emoluments and other benefits relating to Group 'D' employee from 1994 onwards and it was being paid to him. But, the audit team raised an objection and apparently, suggested that he is eligible only to the Bonus admissible to a Casual Labourer for the period from 1999-2000 to 2003-2004.

The respondents would say that vide Annex. R/1 they are



entitled to do so as even though according to Clause 8 after rendering three years' continuous service after conferment of temporary status, the Casual Labourers would be treated at par with temporary group D employees. They would point-out that as per Clause 9, the productivity linked bonus will continue to be paid at the rate applicable to the Casual Labourer. There is no productivity linked bonus available to regular Group 'D' employees. The Casual Labourer in some sectors, it is pointed-out are granted certain productivity linked bonus which is in consonance with the terms and conditions of their appointment. It is pointed-out that such productivity linked bonus is not payable to the applicant as he is a temporary Group 'D' employee. His contention is that he is given a regular bonus as is given to others as well and he would draw the Courts attention to Annex. A/5 which clearly postulates that as a Group 'D' employee a person at par with him has already been granted the same benefit and, therefore, the applicant would contend that denial of this benefit to him would be violative of Article 14 of the Constitution of India. It is also pointed-out that no show cause notice was issued to him on the basis of the alleged report of the audit team. He was never heard on this aspect at all but, in a mechanical way, the decision was already taken and he was asked to reply as to what should be the quantum of monthly deductions.

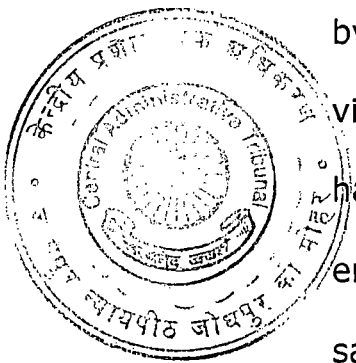
3- When the matter was taken up for admission, this Tribunal had found "no amount has been specified and no final order has been passed and the applicant is being made to suffer for none of his faults. He has also submitted that the action of the respondents is not only illegal but. whimsical as well. He has



further contended that it has been fairly settled by the Hon'ble the Apex Court that even if some over-payment has been made but, without any mis-representation on the part of the applicant, such over-payment cannot be recovered and, therefore, the deduction was kept in suspended animation by this Tribunal by an interim order.

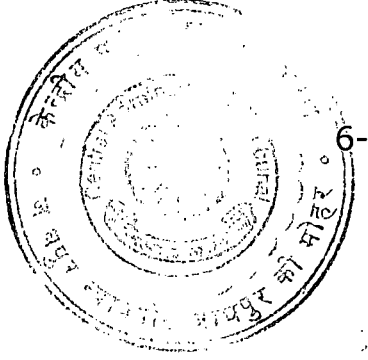
4- Admittedly, the applicant was regularized as a temporary Group 'D' employee and a Group 'D' employee is entitled to regular bonus and , therefore, apparently, bonus on the correct term was paid to the applicant.

5- I have considered this matter and found that no pre-decisional hearing was given to the applicant. No specific written recovery order was passed and issued to the applicant. There cannot be any curtailment of any expenses or advantage or benefit enjoyed by a Government servant without the rules of natural justice being complied and the Government servant being given an opportunity of being heard. In **H.L. Trehan and Ors. Vs. UOI & Ors.** reported in AIR 1989 SC 568, it was held by their Lordships that in such cases where there is a clear violation of Article 14 of the Constitution of India, an employee has a right to receive the salary and other benefits to which he is entitled and no deduction can be made in absence of legal sanction. The applicant has to be heard pre-decisionally and post-decisionally before he is being made to suffer loss of property. Therefore, the impugned order and the consequent orders issued by the respondent-authorities are hereby quashed and if, any amount had been deducted from the pay of the applicant pursuant to the impugned orders, it shall be returned

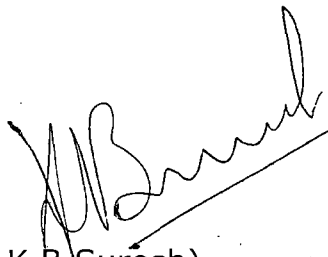


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to him within two months of the receipt of a copy of this order. But, at the same time, it is made clear that this will not foreclose the respondents from taking appropriate action in the matter in accordance with the rules in force observed as above.



No order as to costs.


(Dr. K. B. Suresh)
Judl. Member

दिनांक 17/12/15 को आदेशानुसार
मेरी व्यक्तित्व में दिनांक 09/12/16
को भाग-II व/III नष्ट किए गए।

अनुभाग अधिकारी
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर न्यायपीठ, जोधपुर

R/g
15/12/16
G
15/12