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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR

Original Application No. 368 of 2012

Dated this the 21st day of January, 2013

CORAM

HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, JUDICIAL MEMBER

Prakash Chandra Bothra, S/o Shri Chitamani Dass

b/c Oswal R/o 208 Dhani Bazar, Dist. Barmer,

Office address: Ex-employee of Postal

Department (P.A)

..Applicant

(By Advocate Mr. S.P.Singh)

✶ Vs.

1. Union of India through the Secretary,
Government of India, Ministry of Communication,
Department of Posts, Dak Tar Bhawan,
New Delhi.

2. The Chief Post Master General,
Rajasthan Circle, Jaipur-302 007.

3. The Director, Post Master General,
Western Region, Jodhpur-342001.

4. Superintendent of Post Offices
Churu Division, Churu.

5. Superintendent of Post Offices,
Barmer Division, Barmer.

....Respondents

(By Advocate Mr. Vinit Mathur, ASGI with Adv. D.P.Dhaka)

ORDER

This application is filed against the Memo No.AC.10/5/2011-2012 dated 15.6.2012 issued by the 4th respondent ordering recovery of an amount of Rs. 3662/- paid to the applicant being Over Time Allowance (OTA for short). The applicant has prayed for setting aside the impugned order Annexure.A.1 dated 15.6.2012 and refund of the amount of Rs. 3662/- with 18% interest.

2. The brief facts of the case is that the applicant while posted at Balotra Post Office as SPM (LSG) during July 2005 to October, 2005 and June 2006 performed certain

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overtime work along with other officials. Even though applicant claimed OTA the respondents denied the same as time barred. On a representation before Director of Postal Services, the competent authority Superintendent of Post Offices sanctioned the OTA vide letter dated 21.6.2010 and an amount of Rs. 3662/- was paid to him. However, prior to the retirement of the applicant a show cause notice dated 29.5.2012 was issued for recovery of the OTA amount sanctioned and granted. To this applicant filed a representation. He has alleged that the other officials who have received OTA were not directed for refund of the same. Considering the above representation, the respondents issued the impugned order Annexure.A1 ordering recovery of the OTA granted to him. Hence he has filed this OA for the aforesaid reliefs.

3. The respondents filed a reply statement opposing the prayers in the OA. They have submitted that in August, 2004 applicant submitted supplementary OTA bills for July 2005 to October 2005 and June, 2006 for Rs. 4042/- whereas the original OTA bills have already been sanctioned by SPOs, Barmer in which applicant's name was not available. On a report called for from IP Balotra he submitted a report in which it was found that from 'B' statement of supplementary OTA bills, the work showing many dates were not done by the applicant and he made correction on the office records i.e., nominal roll and falsely claimed OTA. Hence the OTA claim was not paid to him. He made a representation dated 1.1.2009 to the DPS, Rajasthan (Western) Jodhpur. In the meanwhile the SPOs, Barmer passed the bill vide Memo dated 21.6.2010. However, the appellate authority ordered SPOs, Churu where the applicant was working at that time for recovery of the passed and paid OTA amount of Rs. 3662/- and a show cause notice was issued. After going through the reply to the show cause notice submitted by the applicant, the impugned order has been issued for recovery of the amount. They submit that the impugned order is perfectly in order and as per rules on the subject.

4. Heard the learned counsel for the parties. Learned counsel for the applicant contended that the Overtime Allowance Bills were submitted to the Superintendent of

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Post Offices, Barmer and the same have been passed by the competent authority ie., Superintendent of Post Offices, Barmer vide Memo dated 21.6.2010. The respondents in their reply contended that since the applicant submitted these additional bills of Rs. 4042/- a report was called by the Superintendent of Post Offices, Barmer vide order dated 27.2.2007 and the IP Balotra submitted his enquiry report vide letter dated 20.3.2007 and as per enquiry report, it was found that the 'B' statement of supplementary OTA bills the work showing many dates were not done by the applicant and he made certain corrections on the office record ie., nominal roll and falsely claimed OTA. As averred in reply itself it is admitted position that at the time of passing of the bills the enquiry report itself was available with the Superintendent of Post Offices, Barmer and after consideration of that report, the bills were passed by the competent authority. The counsel for the applicant contended that mere pendency of a representation before the appellate authority ie., Director, Postal Services, Rajasthan (Western), Jodhpur cannot be a ground for making an order of recovery of the amount of RS. 3662/- The applicant submitted a bill of Rs. 4042/-. Vide Annexure.A.1, order has been issued to him for recovery of an amount of Rs. 3662/- and on the basis of an enquiry, it cannot be said that these Overtime work were not done by the applicant.

5. Per contra the learned counsel for the respondents submitted that the Superintendent of Post Offices, Barmer earlier directed the IP Balotra to hold an enquiry and the IP Balotra submitted an enquiry report stating that no such work was done by the applicant, therefore, the order Annexure.A1 cannot be said to be illegal or bad in the eye of law.

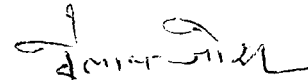
6. I have considered the rival contentions and perused the pleadings on record. It is admitted position that earlier Superintendent of Post Offices, Barmer directed the IP Balotra to hold an enquiry and after considering all the relevant records, the Superintendent of Post Offices, Barmer passed the bills of the applicant. He was competent to pass the bills. Mere pendency of a representation before the Director of Postal Services, Rajasthan (Western), Jodhpur it cannot be said that the competent

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authority passed the bill illegally or irregularly. The amount was paid in June, 2010 and the memo was issued in May, 2012 after lapse of two year . Applicant retired in the month of July, 2012. The applicant did not receive this amount by way of act which amounts to fraud or misrepresentation. Therefore, in my considered view the respondents are not entitled to recover this amount from the applicant and the order Annexure.A.1 passed by the Superintendent of Post Offices, Churu Division, Churu cannot be sustained and is bad in the eye of law.

7. Accordingly Annexure.A.1 is quashed and OA is allowed. Respondents are directed to pay the amount of Rs. 3662/-, if recovered from the applicant. There is no order as to costs.



(Justice K.C. Joshi)
Judicial Member

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