

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 618 of 2003

Friday, this the 25th day of July, 2003

CORAM

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

1. P.R. Akilesh Kumar,
Sorting Assistant (BCR),
Head Record Office, RMS TV Division,
Thiruvananthapuram.Applicant

[By Advocate Mr. Thomas Mathew]

Versus

1. Senior Superintendent,
Railway Mail Service TV Division,
Thiruvananthapuram.
2. Chief Postmaster General,
Kerala Circle, Trivandrum.
3. Director General,
Department of Posts, New Delhi.
4. Union of India, represented by its
Secretary, Department of Posts,
New Delhi.Respondents

[By Advocate Mr. C. Rajendran, SCGSC]

The application having been heard on 25-7-2003, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

The applicant is aggrieved by Annexure A-5 communication dated 3-7-2003 of the 1st respondent, which contains a proposal to recover the excess paid arrears of Productivity Linked Bonus for the periods of Dies-non, Extra Ordinary Leave etc. for the period from 1994 to 2002, drawn during April and July, 2002. The applicant is a Sorting Assistant (BCR) working in Railway Mail Service, Head Record Office, Trivandrum. The following are the main reliefs sought for:-

2

- "i) call for the records leading to the issuance of Annexure A5 and quash the same; and
- ii) declare that the amount of arrears paid to the applicant by way of arrears of PLB is not liable to be recovered and direct the respondents not to recover the amount from the applicant's salary."

2. When the matter came up for hearing on admission, Shri C.Rajendran, learned SCGSC pointed out that the application is premature in as much as the applicant had been given an opportunity to make a representation against the proposal contained in the impugned Annexure A5 communication and a decision against or in favour of the applicant would be taken only after considering the representation. He would, therefore, submit that the application, not reflecting any subsisting cause of action, should not be admitted.

3. Shri Thomas Mathew, learned counsel for the applicant, on the other hand, has stated that the representation referred to in the impugned Annexure A5 communication is only an empty formality and a decision to recover the amount has already been taken by the respondents and that therefore the OA needs to be admitted and adjudicated.

4. On a consideration of the relevant facts, we notice that no prejudice or harm has been caused by the respondents by the issue of Annexure A5 communication dated 3-7-2003. Respondents are under the impression that certain amounts were given in excess on account of PL Bonus, since periods of Dies-non, Extra Ordinary Leave etc. were reckoned mistakenly for that purpose. In Annexure A6 representation, the applicant has made out his case that the relevant aspects of the issue had been discussed in the JCM (RC), Kerala Circle meeting held on 7-3-2002 and a decision to the effect that average monthly

9.

emoluments will be calculated by dividing total emoluments of the year by twelve had been taken at the meeting, which would mean that the proposal contained in the impugned Annexure A5 communication is wrong.

5. When the matter was heard, however, both the counsel agreed that the OA can be disposed of by directing the respondents to consider Annexure A6 representation of the applicant on the basis of the facts reflected therein and take a judicious decision thereon and to communicate the same to the applicant within a time frame.

6. In the light of the submissions made by the learned counsel on either side, we dispose of the Original Application by directing the 1st respondent to consider Annexure A6 representation fairly, judiciously and in accordance with the instructions on the subject in consultation with the 2nd respondent and pass appropriate orders thereon with a copy to the applicant within a period of three months from the date of receipt of a copy of this order. Respondents shall not proceed to recover any alleged excess payment on account of PL Bonus for the period of Dies-non, Extra Ordinary Leave etc. as proposed in the impugned Annexure A5 communication till the representation is dealt with and disposed of. No order as to costs.

Friday, this the 25th day of July, 2003



K.V. SACHIDANANDAN
JUDICIAL MEMBER



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

Ak.