

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW.**

O.A. No. 559/2005

This, the ²⁷ ~~17~~ th day of February, 2008.

HON'BL MR. M. KANTHAIH, MEMBER (J)

1. Harendra Kumar son of Sri Bhola Rm Prajapati.
2. Ramesh Chandra Tripathi son of Late Madhuri Saran, Tripathi.
3. Girja Dixit son of Late Lauhar Dixit.
4. Ganga Prasad Kanaujia, son of Sri Chotey Lal Kanaujia.
5. Kailash Nath Srivastava son of Lat Kedar Nath Srivastava.
6. Radhey shyam son of Late Sita Ram.
7. Munna Lal Kanaujia son of Sri Bhagwan Din Kanaujia.
8. Mahesh Prasad son of Late Daya Shanker.
9. Mohd Islam son of Late Mohd. Iqbal Husain
10. Mohd Ismail son of late Waris Ali.
11. Arvind Kumar Singh, son of Sri Prabha shanker Singh.

All 1 to 11 applicants are at present working a temporary Group 'D' Employees, in the officer of Superintendent, Circle Stamp Depo, New Hyderabad, Lucknow.

12. Rakesh Srivastava son of late Ram Lakhan Srivastava.
13. Smt. Laxmi Devi wife of Sri Vikanu
14. Smt. Shanti Devi wife of Sri Mangal

Applicants No. 12 to 14 are working as temporary Group D Employees in Chandganj and New Hyderabad Post Officers, under the jurisdiction of senior superintendent of Post Offices, Lucknow.

15. Siyanand son of Sri Sahaj Ram, at present working as Temporary Group 'D' employe at Lalbagh Post Officer, under the jurisdiction of Senior Superintendent of Post Offices, Lucknow.

Applicants.

By Advocate Sri Surendran P.

Versus

1. Union of India through the Secretary, Department of Posts, New Delhi.
2. Chief Post Master General, U.P. Circle, Lucknow.
3. Director of Postal Services, Lucknow Region, Lucknow.
4. Senior Superintendent of Post Offices, Lucknow.
5. Superintendent, Circle Stamp Depo., New Hyderabad, Lucknow.
6. Chief Post Master, G.P.O. Hazratganj, Lucknow.

Respondents.

By Advocate Sri A. P. Usmani.

Order

By Hon'ble Mr. M. Kanthaiah, Member(J)

The applicants have filed the original application to issue direction to the respondents for return back the bonus amount recovered from the applicants with interest on the ground that no opportunity was given to them before they started recovery and no orders have issued by any competent authority for such recovery and also that no details are furnished in respect of the total amount to be recovered from the applicants.

2. The respondents have opposing the claim of the applicants and stated that due to inadvertence, the applicants were paid bonus at the rate of monthly wages of Rs. 2,500/- at par with regular Group 'D' employees and thus they paid excess bonus amount and as such , they are justified in starting recovery of such excess paid amount from the applicants.

3. Heard both sides.

4. The point for consideration is whether the applicants are entitled for the relief as prayed for.

5. The admitted facts of the case are that the applicants who have been working in the respondents department for the last several years, have been granted a temporary status under casual labourers (grant of temporary status on regularization) scheme w.e.f 29.11.1989. They also completed more than 3 years of service as temporary status employees which is required for regularization for their services and they are also getting all kinds of benefits of the temporary status employees including for grant of bonus. Annexure 6 is the copy of circular dated 16.10.2001.



The services of the applicants have not yet been regularized. Basing on the circular covered Annexure A-6, the respondents granted bonus to the applicants at par with regular Group 'D' employees and paid such bonus from 1991 to 2000. Though, the respondents have initially started recovery in the year 2002, but after recovery of Rs. 2,500/- they stopped and thereafter again in the month of February 2004, they started such recovery at Rs. 500 per month from the pay of the applicants on the ground that they paid excess bonus.

6. Admittedly, the applicants have been granted temporary status of Group 'D' and thereafter, the respondents authorities have sanctioned all kinds of benefits of such temporary status employee including for grant of bonus to the applicants. Basing on the circular more particularly Annexure A-6, the respondent authorities have paid the bonus amount to the applicants from 1991 to 2001. Admittedly, the applicants have not been regularized as Group 'D' employees and there is distinction in respect of the amount of bonus payable to temporary group 'D' employees and regular Group 'D' employees. But the respondents have paid bonus to applicants at par with regular Group 'D' employees and the applicants never challenged any of the circulars in respect of such discrimination

7. Admittedly, after the payment of bonus at par with regular Group 'D' employees for more than 10 years, the respondents have realized their mistake and immediately started recovery of the excess bonus amount paid to the applicants who have been working as temporary Group 'D' employees and upon which, the applicants have challenged the said acts of the respondent authorities. The applicants

have also relied on the decision of this Tribunal in O.A. No. 629/2001 in support of their claim.

8. The applicants mainly questioned the action of the respondent authorities that no opportunity was given to them before starting recovery on the ground of excess payment of bonus to the applicants. The respondents have also admitted that they started recovery on the grounds that they paid excess amount to the applicants at par with the Group 'D' regular employees and for rectification of such mistake, they started recovery. Deducting any of the amount from the monthly salary of the applicant is nothing but affecting civil consequences. Admittedly, the respondent authorities have neither issued any notice to the applicants nor informed their decision for deduction of the amounts on the ground of excess payment made to the applicants due to any inadvertence. After payment of such amounts for more than 10 years, suddenly, they started deducting amounts from the monthly salary of the applicants without giving any notice and without giving any opportunity to the applicants which is nothing but against the principle of natural justice. If the respondents authorities are justified in such recovery from the applicants, they are at liberty to take such steps after following the procedure that is by giving notices to the applicants and after providing an opportunity to them. But in the instant case, without giving any opportunity to the applicants starting recovery suddenly and surprisingly is not at all justified and as such, the applicants are justified in questioning such action of the respondents.

9. It is also not in dispute that no orders have been passed by the competent authority stating that they have paid excess amount to the applicants and also what is the total excess amount paid and to be

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recovered from the applicants is also not furnished. Without giving any such particulars and without passing any such orders by the competent authority, the authorities all of sudden starting recovery from the applicants monthly pay is not at all justified and the same is also a valid ground for questioning the validity of the actions of the respondent authorities.

10. The respondents have taken objections on the ground of limitation. But in the instant case, the applicants categorically stated that in the year 2002, they started such deduction but immediately they stopped it and as such there was no occasion to them to question at that time. The contention of the applicants is that in the year 2004 when the respondent authorities again started for recovery from the month of February 2004, after submitting their representations they have filed this O.A. in the year 2005. When there was a such explanation from the applicants, the objections raised by the respondents in respect of delay in filing O.A. is not at all sustainable.

11. In view of the above discussion, the applicants are justified in challenging the action of the respondents for deduction of the amounts from the salaries of the respective applicants from February 2004 on the ground of excess payment of bonus paid to them. No doubt, it is the discretion of the respondent authorities to recover excess bonus amount if any paid to the applicants after following the required procedure as per rules. Thus the respondents are directed to return the deducted amounts of the applicants from February 2004 onwards and also not to deduct any amount from the salary of the respective applicants with a liberty to the authorities to recover excess amount if any paid after

following the procedure as per rules and with these observations, the
O.A. is allowed. No costs.


(M. Kanthaiah)
Member (J)

27-02-2008

v.