

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.578/2006
This the 18th day of January 2008

HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

Sri Jiya Lai Maurya aged about 57 years S/o Late Sri Ram Kishore Maurya R/o LS-2/588 Sector F Jankipuram, Lucknow working as Assistant Accounts Officer O/o D.P.A. U.P. Aliganj, Lucknow.

...Applicant.

By Advocate: Shri R.S. Gupta.

Versus.

1. Union of India through the Secretary Department of Post, Dak Bhawan, New Delhi.
2. Chief Postmaster General, U.P., Lucknow.
3. Postmaster General, Gorakhpur.

By Advocate: None.

ORDER (Oral)

BY HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

Heard Shri R.S. Gupta, the learned counsel for the applicant.
None is present for respondents.

2. The applicant has filed this O.A. to quash the recovery order dated 29.09.2006 and 10.06.2005 covered under (Annexure- A-1) and (Annexure-A-1-B) and for refund of the recovered amount of Rs. 6310/- with interest on the ground that no opportunity was given to him before issuing such recovery order. It is also the contention of the applicant that by virtue of order covered under Annexure-A-1 dated 18.11.2004, he has been transferred from Azamgarh to Gorakhpur

and basing on such order he claimed transfer allowance, which the respondent department allowed and also paid. But subsequently, when he made representations for differential amount, the respondents have issued impugned recovery order without giving any opportunity. Thus, he challenged the order of recovery made by the respondents on the ground that it is illegal and also on the ground that no opportunity was given to him before starting the recovery of such amount.

3. The respondents, who have filed Counter Affidavit stating that the applicant was not transferred by virtue of Annexure-A-1 and it was only an arrangement of the temporary duty and as such he was not entitled to claim any transfer allowance and as such they have recovered the paid amount from the applicant and thus they have justified their claim in respect of recovery made from the applicant. In respect of second objection, that no opportunity was given to the applicant before issuing recovery order of the sanctioned amount to which they have not stated any thing in their Counter Affidavit.

4. The applicant has questioned the impugned recovery order on the ground that no opportunity was given to him before deduction of amount, which ^{has} ~~is~~ already paid and the same is not disputed by the respondents. It is the duty and responsibility of the respondent authorities that before starting any recovery from the employee, they have to satisfy ² ~~the~~ the applicant and also provide an opportunity for giving his reply. But in the instant case, no such opportunity was given to the applicant and they have passed the recovery order behind the back of the applicant, which is against the principles of natural justice and the act of the respondents for recovery of

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sanctioned amount of Rs. 6310/- and for it's refund is not at all justified. Hence, the same is allowed. The respondents are at liberty to take a decision, if they paid illegally and not in accordance with rules after giving opportunity to the applicant. With these observations, the OA is allowed in respect of refund of Rs. 6310/- to the applicant. No costs.

(M. KANTHAIAH)
MEMBER (J)

18.01.2008

Ak/.