

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

Original Application No. 16/2009

This, the 7 day of October, 2013

Hon'ble Sri Navneet Kumar, Member (J)

K.K. Bajpai aged about 64 years son of late J.P. Bajpai resident of D-120-A, Awas Vikas Colony, Rajajipuram, Lucknow

By Advocate: Sri Dharmendra Awasthi Applicant.

Versus

1. Union of India through the Secretary, Department of Posts, Govt. of India, Dak Bhawan, New Delhi.
2. Chief Post Master General, M.P. Circle, Bhopal (Madhya Pradesh)
3. Accounts Officer, O/o Post Master General, Indore Region, Indore-01.
4. Director, Postal Services, Indore Region, Indore (M.P.)
5. Senior Superintendent of Post Offices, Jabalpur Division, Jabalpur (MP).
6. Senior Post Master, Jabalpur Division, Jabalpur (MP)

Respondents.

By Advocate: None

(Reserved on 25.9.2013)

ORDER

By Hon'ble Sri Navneet Kumar, Member (J)

The present Original Application has been preferred by the applicant u/s 19 of the AT Act with the following reliefs:-

- i) Quash the impugned order dated 11/12.6.2006 passed by the opposite parties No. 5 and 6 , order dated 1.5.2007 passed by the opposite party No. 4 and order dated 1.2.2008 passed by the opposite party No.2 contained as Annexure Nos. 1,2 and 3 respectively to this original application.
- ii) Direct the opposite parties to refund the amount of Rs. 14410/- to the applicant along with the interest at the rat of 18%.
- iii) Pass any other suitable order or direction which this Hon'ble Tribunal may deem, fit just and proper under the circumstances of the case in favour of the applicant.
- iv) Allow the present Original application of the applicant with cost.

2. No one has put in his appearance on behalf of the respondents, as such after invoking Rule 16(1) of CAT (Procedure) Rules, 1987, learned counsel for applicant was heard finally and order was reserved.

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3. The brief facts of the case are that the applicant who was working with the respondents organization superannuated on 30.6.2004. It is also pointed out by the learned counsel for the applicant that an amount of Rs. 14410/- was deducted from the gratuity of the applicant and in pursuance of the said order dated 12.6.2006, the applicant preferred an appeal and the said appeal was also decided by the appellate authority on 1.5.2007. It is also pointed out by the learned counsel for the applicant that applicant has also preferred revision on 7.12.2007 and the same was also rejected on 1.2.2008. Feeling aggrieved by the said orders, applicant preferred the present O.A.

4. Learned counsel appearing on behalf of the respondents filed their reply and through counter reply, it was pointed out by the respondents that as per Rule 71 and 73 of CCS Pension Rules, the respondents are at liberty to recover the excess paid amount from the gratuity, as such there is no wrong in recovering the said amount. Apart from this, it was also pointed out on behalf of the respondents that there is no wrong in the process adopted by the respondents and the appeal and revision petition filed by the applicant was considered sympathetically and when no illegality was found, the impugned orders were passed.

5. The learned counsel appearing for the applicant has filed Rejoinder Reply and through Rejoinder reply, mostly the averments made in the Original Application are reiterated.

6. Heard the learned counsel for parties and perused the record.

7. Admittedly, the applicant, who was working in the respondents organization superannuated on 30.6.2004. After the superannuation, the applicant was required to get the entire amount of DCRG but the Senior Superintendent of Post Offices, Jabalpur has passed an order dated 11.6.2006 whereby it is pointed out that some of Rs. 14410/- is required to be deducted from the gratuity of the applicant and when the said amount was deducted, the applicant submitted an appeal to the appellate authority and the said appeal was decided by the appellate authority, rejecting the claim of the applicant. The applicant further feeling aggrieved of the said order, preferred a revision and the said revision was also rejected by the revision authority.

8. It is worthwhile to mention that it is settled law on the point that firstly no recovery can be made unless any fraud or misrepresentation is alleged on the part of any person from whom the recovery is being sought to be made and secondly, if at all there is any justification for making any recovery, then also adhering to the Principle of Natural Justice, a show cause notice is a condition precedent for making any such recovery. The bare reading of the entire C.A. there is no whisper about a word notice is shown. It is really very surprising that as to why without issuance of show cause notice, the recovery in question was made and that too from the applicant from his gratuity. The bare reading of the impugned order shows that excess payment of pay and allowances was made for the period January, 2002 to June 2006 and the said amount was not deducted by the authorities despite such a long period and the same was came into the notice of the respondents after a period of 2 years from the date of retirement of the applicant. The appellate as well as revision order also a non-speaking order. Accordingly, the O.A. deserves to be allowed.

9. Accordingly, the O.A. is allowed. The impugned order dated 11.6.2006, 1.5.2007 and 1.2.2008 are hereby quashed. The respondents are directed to refund the amount of Rs. 14410/- deducted form the gratuity of the applicant within a period of 3 months from the date of certified copy of this order is produced. It is made clear that applicant will not be entitled for any interest on the said amount.

10. With the above observations, O.A. is allowed. No order as to costs.

Navneet Kumar
(Navneet Kumar)
Member (J)

HLS/-