

1.

OA 746/2005

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA No. 746 of 2005**

Date of order 28 September., 2007

C O R A M

Hon'ble Mr. Amit Kushari, Member[Admn.]

Maheshwari Prasad, son of late Jagdish Prasad, resident of village –
Narayanpur, Gudari Mani Road, P.S. - Bhawan Bazar, District –
Chapra. **Applicant**

Vrs.

1. Union of India through the Chief Postmaster General, Bihar Circle,
G.P.O. Complex, Patna.

2. Director of Accounts, Postal Patna.

3. The Sr. Superintendent of Post Offices, Saran Division, Chapra.

4. The Postmaster, H.O. Chapra.

5. The Accounts Officer, Postal Account, saran.

6. The Asstt. Accounts Officer, Postal Account, Saran.

..... **Respondents**

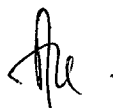
Counsel for the applicant : Shri S.K. Bariar

Counsel for the respondents : Shri Amresh Kr. Mishra, ASC

O R D E R

Amit Kushari, Member[A] :-

The applicant retired as Assistant Postmaster, Chapra in June, 2002.



The applicant retired as Assistant Postmaster, Chapra in June, 2002. In November, 2003, he got a letter by which the authorities had ordered recovery of Rs. 13,981/- from his pension and the recovery started in November, 2003. When he wanted to know the reasons for this recovery and made several representations, the applicant was informed that in the year 1982 by mistake a credit of Rs. 3000/- had been made instead of Rs.300/- and this excess amount was un-noticed and in the year 2002 when the applicant retired, he got an excess G.P.F. amounting to Rs. 13,981/- . By May, 2004, the full amount was recovered by monthly installments. Now the applicant in this O.A. has requested that this amount of Rs. 13981/- should not have been recovered from his pension and should be given back to him. It is his case that the excess credit in the G.P.F. was not due to any misrepresentation or fraud by him and it was a miscalculation by the respondents themselves. He has, therefore, prayed for refund of this amount which has already been recovered from his pension .

2. The respondents have said that during the period November, 2003 – 2004 when the recovery was being made, he did not raise any hue and cry and he filed this O.A. as late as in November, 2005 – very belatedly almost two years after recovery started. The respondents have said that the applicant is fully responsible for not intimating to the Govt. when by



mistake instead of credit of Rs. 300/-, a credit of Rs.3000/- was made in his G.P.F. Amount [i.e., an excess of Rs. 2,700/-]. The applicant surely knew that his monthly credit in G.P.F. was Rs.300/- and not Rs. 3000/-. He should have reported this matter to the authorities immediately as soon as this typographical error occurred in G.P.F. Schedule.

3. The ld. counsel for the applicant points out that there are a number of judgments of the Apex Court in which it has been ruled that if an excess payment has been made to an employee due to some error of the authorities and not due to any misrepresentation or fraud committed by the employee then the recovery of payments already made should not be made from the employee. In Anup Singh vs. State of Haryana, the Punjab and Haryana High Court gave a similar judgment.

4. The ld. counsel for the respondents pointed out that in this case, the employee was absolutely responsible because he should have intimated to the authorities about the credit of Rs. 3000/- instead of Rs. 300/- in his G.P.F. Account as the employee knew very well that monthly credit was Rs.300/- as this was being deducted from his pay. The fact that he maintained silence on this glaring error shows that his silence was intentional and he wanted to defraud the Govt. This case cannot be compared with the cases decided in the Hon'ble Apex Court or in the



Punjab and Haryana High Court. He also pointed out that in this case no recovery has to be made from the employee since all necessary recoveries have already been made. The judgments quoted above are against recoveries hence are not applicable in this case.

5. I have carefully considered the rival arguments of both the side. I find it difficult to believe that the applicant did not notice that in his GPF account, a credit of Rs.3000/- was made whereas it was a known fact that Rs. 300/- was deducted from his salary as GPF. He should have immediately intimated the authorities about the excess credit. Instead of doing so he kept quiet and a conclusion can be made that his silence was intentional. This case is, therefore, not comparable to the case in which Hon'ble Apex Court and the Punjab & Haryana High Court gave favourable rulings against the recovery. Besides in this case recovery has already been made and it is fait accompli. The money which was by mistake credited in the GPF cannot be now paid again to the applicant as that would be beyond the existing rules. This O.A., therefore, appears to be devoid of merit and hence it is dismissed.



[Amit Kushari]M[A]