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CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT HYDERABAD

OA.802/97

dt.19-1-98

Between

N. Adinarayana

: Applicant

and

1. Union of India, rep. by  
the Secretary & DG  
Dept. of Posts, Dak Bhavan  
New Delhi 110001

2. Postmaster-General  
Visakhapatnam Region  
Visakhapatnam 530003

Sr. Supdt. of Post Offices  
Srikakulam Division  
Srikakulam

4. Chief Postmaster General  
AP Circle, Hyderabad 1

5. Postmaster  
Amadalavalasa HO  
Srikakulam Dist.

Respondents

Counsel for the applicant

: T.V.V.S. Murthy  
Advocate

Counsel for the respondents

: V. Bhimanna  
CGSC

Coram

HON. MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

## Order

Oral order (per Hon. Mr. H. Rajendra Prasad, Member (Admn))

Heard Sri T.V.V.S. Murthy for the applicant and Sri V. Bhimanna for the respondents.

1. The basic allowances of the applicant in this OA were fixed <sup>at</sup> Rs.410.85/-, when he was appointed EDMC in June, 1990. Nearly seven years later the allowances were reduced to Rs.338/- inclusive of Cycle Maintenance Allowance. The reduction was ordered with retrospective effect from the date of his initial appointment and the alleged over payments resulting from the reduction were sought to be recovered from his pay. The recovery was, however, stayed on 30-6-97.

2. The case of the applicant is that he has to traverse a distance of approximately 20 Kms. across inhospitable terrain, through agricultural fields and unforded canals on the road. Consequently, according to him, he is unable to use a bicycle for his official journeys throughout the year. In support of his contention the applicant refers to the facts that -

- a) the District Collector had ordered detachment of this particular village from the erstwhile Gram Panchayat of Lankam precisely on the ground that the village was being neglected badly in the then composite Panchayat setup, including the fact that the villagers were finding it difficult to reach the main village, especially in rainy seasons, as there existed many canals between the two villages (RJ.3).
- b) the concerned MRO had duly certified that no road was available between two intervening villages which could possibly be crossed on a bicycle (Annexure A-3).

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3. The applicant also refers to a representation signed by, among others, the Chief Mandal Panchayat Territorial Counsel (MPTC) alluding to the fact that the said road is untraversable by bicycles.

4. The applicant is basically aggrieved by the fact that his allowances were reduced retrospectively. This action is clearly contrary to the guidelines laid down by the DG P&T from time to time, as seen from Annexure R-1 and R-3 to the counter. He also complains that the counter-affidavit filed by the Department merely incorporates certain phrases and expressions, e.g., "the use of bicycles by various vendors like vegetable and Kerosene vendors who also deliver to goods from house to house" in a mechanical manner. This expression seems to have just been routinely lifted from one of the guidelines issued by the Directorate and reproduced in the counter-affidavit without actually verifying the facts on ground.

5. The two questions that basically arise in this case are :

- i) whether the recovery of alleged over-payments is permissible; and
- ii) whether the allowances have been reduced in a rational manner after a careful study of facts and by taking into consideration the actual realities on ground.

6. The answer to the first question is a clear 'no'. No recovery of the allowances already paid is permissible even as per the clarification and instructions issued by the higher authorities. The recovery ordered has, therefore, to be set aside. If any amounts have been recovered from the applicant's allowances based on the impugned order, it is directed that the same should be restored and refunded to him within 90 days from today.

Q/A:

7. As regards the question of his continuing emoluments, the same needs to be redetermined *denovo* from 1-1-1998. This date is taken from the instructions/clarifications issued by the Directorate. In such a situation, nothing *sancro-sanc* is attached to any particular date. However, taking into consideration the overall thinking of the Directorate in such matters, there appears to be an urgent need to have the facts and grounds carefully reassessed before redetermining the allowances of the applicant. This could be ideally done by deputing a responsible official from the Headquarters of the Region. It would be necessary that, <sup>a fact-finding</sup> besides survey of the ground-situation by personal visit along the untraversable portion(s) of road in question, the views of the concerned State Government officials from either Revenue or/and Panchayat Raj Department are also taken into consideration before a decision is taken to refix the allowances. This should be done within a period of 60 days from the date of receipt of copy of this order. Until then, the original allowances as fixed initially in respect of the applicant shall continue to be paid to him. A suitable decision may be taken and conveyed, within the time indicated, by PMG, Visakhapatnam (Respondent-2), who, I expect, shall bestow his personal attention to this case with a view to taking a judicious decision based on facts, rules, instructions and guidelines.

8. Thus, the OA is disposed of. *15/1/98*

(H. Rajendra Prasad)  
Member (Admn.)

Dated : January 19, 1998  
Dictated in Open Court

*Amulya*  
23-1-98  
DNC

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O.A.802/97

To

1. The Secretary and Director General,  
Dept.of Posts, Dak Bhavan, Union of India,  
New Delhi-1.
2. The Postmaster General,  
Visakhapatnam Region, Visakhapatnam-3.
3. The Sr.Suptd.of Post Offices,  
Srikakulam Division, Srikakulam.
4. The Chief Postmaster General,  
AP Circle, Hyderabad-1.
5. The Postmaster, Amadalavalasa HO  
Srikakulam Dist.
6. One copy to Mr.T.V.V.S.Murthy, Advocate, CAT.Hyd.
7. One copy to Mr.V.Bhimanna, Addl.CGSC. CAT.Hyd.
8. One copy to HHRP.M.(A) CAT.Hyd.
9. One ~~copy~~ copy to D.R.(A) CAT.Hyd.
10. One spare copy.

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TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE

VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

DATED: 19-1-1998

ORDER/JUDGMENT:

M.A./R.A./C.A.No.

O.A.No.

in  
802/97

T.A.No.

(W.P.)

Admitted and Interim directions  
Issued.

Allowed

Disposed of with direction

Dismissed.

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm.

केन्द्रीय प्रशासनिक अधिकार  
Central Administrative Tribunal

DESPATCH

2 FEB 1998

हैदराबाद न्यायपीठ

HYDERABAD BENCH