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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT HYDERABAD

OA.507/99

dt.27-9-99

Between

PR Srinivasan

: Applicant

and

1. Sr. Supdt. of Post Offices  
Nellore Division  
Nellore

2. Postmaster  
Head Post Office  
Nellore

3. Sub Postmaster  
Mulapeta Post Office  
Nellore-3

: Respondents

Counsel for the applicant

: Krishna Devan  
Advocate

Counsel for the respondents

: B. Narasimha Sharma  
CGSC

CORAM

HON. MR. B.S. JAI PARAMESHWAR, MEMBER (JUDL.)

DR

OA.507/99

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## Order

Oral order (per Hon. Mr. B.S.Jai Parameshwar, Member(J)

Heard Mr. Krishna Devan, learned counsel for the applicant and Ms.M.C. Jacob for Mr. B. Narasimha Sharma, learned counsel for the respondents.

2. While the applicant was working as Postal Assistant, retired from service during 1996 on attaining the age of superannuation. He was sanctioned salary equivalent to 225 days of EL at his credit and accordingly the payment was made by the Respondent No.2. He was also paid difference in the leave encashment salary as a result of revision of pay w.e.f.1.1.1996.

3. Subsequently, the respondents noticed that the applicant had only 215 days of EL at his credit and that the calculation and payment of cash equivalent at the rate of 225 days was irregular and hence they directed the applicant to refund the sum of Rs.2066/- which is equivalent to 10 days leave encashment.

4. After noticing the discrepancy, the respondent No.2 by his memo No.AC/ICR/98 dated 9-2-99 directed the respondent No.3 to recover Rs.2066/- from the applicant towards excess payment of salary equivalent to leave encashment of leave on 22-2-1999, the applicant through the respondent No.3 requested not to proceed with the recoveries as stated above. There was no response. However, the respondent No.2 by his letter No.AC/PPO/11695/LPR dated 25-2-99 directed the Respondent No.3 to recover Rs.2066/- from the applicant.

5. The applicant has filed this OA for the following reliefs:  
1) To call for the records relating to the impugned order No. AC:PPO:11695/LPR dated 25-2-1999 passed by the Respondent No.2.

J/

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11) To set aside the impugned order by holding that the same was passed in breach of Principles of Natural Justice and hence illegal being violation of Art. 14 ~~and~~ of the Constitution of India and direct the respondents to refund the amount recovered if any from the applicant in pursuance to the impugned order.

6.1. On 1-4-1999 an interim direction was passed suspending recovery to be made in terms of the order dated 25-2-1999.

7. The respondents have filed their reply stating that the applicant while in service had availed 10 days of EL from 13-11-1995 to 22-11-95 and that this period of 10 days was ignored at the time of determining salary equivalent to encashment of leave, that ~~not~~ had this been considered the applicant would have only 215 days on his credit but they had paid leave encashment salary equivalent to 225 days of EL at his credit. Thus they justify ~~and~~ their action in ordering recovery from the applicant.

8. The excess paid is in respect of 10 days of EL which the applicant had availed while in service from 13-11-1995 to 22-11-1995.

9. On 14-9-1999 Sri D. Gopala Krishna, Assistant Supdt. of Post Offices, Nellore, was present with records to show that the applicant had availed 10 days Earned Leave during November, 1995 before his retirement and that the said leave was inadvertently calculated while determining the leave encashment salary. The respondents have produced the extracts of SR leave file, relating to the applicant.

10. Further the respondents have furnished the said extracts to the learned counsel for the applicant.

11. They have furnished material papers to show that the applicant was paid a sum of Rs.46,500 being the leave encashment calculated on the basis of 225 days EL at his credit. But actually the applicant was eligible for Rs.44,435. Hence,

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by the impugned order they attempted to recover Rs.2066/-.

12. The salary equivalent to leave encashment was determined by the respondent authorities taking into consideration 225 days of EL at his credit. However, they noticed that the applicant had availed 10 days EL during November, 1995 and that fact was not taken into consideration while determining the salary equivalent to leave encashment. Therefore, the applicant at the time of retirement had only 215 days at his credit for leave encashment. Hence, the respondents by the impugned order sought to recover the difference of salary equivalent to leave encashment paid to the applicant from amount of Rs.2066/-.

13. The learned counsel for the applicant submitted that the impugned order has been passed in violation of the principles of Natural Justice, that before ordering recovery the respondents should have given an opportunity to the applicant, and that the applicant is a pensioner having no other sources of income, and he will be put to considerable hardship. It is stated that before the interim order certain sum out of Rs.2066/- had been recovered from his pension.

14. However, after the respondents produced the material papers the learned counsel for the applicant could not dispute the correctness of the same.

15. The respondent authorities could have issued a letter to the applicant, about their proposed decision for recovery which could have met the principles of Natural Justice.

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..4.

16. The learned counsel for the applicant prayed for recovery of the said sum of Rs.2066/- in monthly instalments of Rs.50/-. I am not prepared to accept his submissions. In this behalf the applicant may, if so advised to submit a representation to the respondents No.2 for fixing easy monthly instalments of recovery. The respondent No.2 is the proper authority to decide this monthly instalments of recovery.

17. The respondent authorities are at liberty to calculate and correct the salary equivalent to leave encashment payable to the applicant. Merely because by ignorance <sup>or</sup> inadvertently they took into consideration 10 days of EL which the applicant had availed in November, 1995, they cannot be restrained from recovering the excess amount. The respondents are well justified in ordering recovery of the said amount from the applicant.

18. Hence, I find no irregularity in the impugned order. The applicant has to pay to the Department Rs.2066/- which was paid in excess towards leave encashment salary by the Department.

19. Taking into consideration the submission made by the learned counsel for the applicant, I direct the respondents to recover Rs.2066/- (less any sum if already recovered) in easy monthly instalments without putting the applicant to any kind of financial inconvenience. The instalment of recovery so determined shall be informed to the applicant. Till such time, the interim order dated 1-4-1999 shall be in force.

20. Time for compliance is three months from the date of receipt of copy of this order.

21. Hence, the OA is disposed of with the above direction.  
No costs.

*BSP*  
B.S. Jai Parameshwar  
Member (Judl.)

Dated : Sept., 27, 1999  
Dictated in OpenCourt