

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA. No.1184/99

Date of order : 12-6-2000

Between:

G.Kotaiah.Applicant
and

1. Post Master,
Kandukuru H.O.,
Dist. Prakasham, A.P.
2. Sr. Supdt. of Post Offices,
Prakasham District, A.P.

....Respondents

Counsel for the Applicant -- Mr. N. Veerabhadraiah, Advocate

Counsel for the Respondents -- Mr. P. Phalguna Rao, Addl. CGSC

CORAM :

THE HON'BLE MR. B. S. JAI PARAMESHWAR : MEMBER (JUDL.)

...

Order

Heard Mr. N. Veerabhadraiah, learned counsel for the applicant and Mr. P. Phalguna Rao, learned standing counsel for the Respondents.

2. The applicant is a retired Mail Overseer, in the Dept. of Posts. He submits that at the time when he was promoted to cadre of Mail Overseer the scale of pay was revised and fixed in the scale of 260-6-326-E8-B-350, w.e.f. 14.5.1975. It is stated that on account of wrong fixation of his pay by the postmaster, Kanigi H.O. his pay was fixed w.e.f. 14.5.1975 instead of 1.1.1978. The wrong fixation of pay in the Scale of Pay of Rs. 260-350 while the applicant was promoted as Mail Overseer was noticed by Director of Accounts (P), Hyderabad.
3. The applicant retired from service w.e.f. 30.6.1994 on attaining the age of Superannuation.
4. The Sr. Superintendent of Post Offices, Prakasham Division at Ongole has issued a letter No. C/Pen/GK, dt. 30.10.95 (Annexure-5)



..contd..2

to OA) informing the applicant that as per directions of the Dir. Accounts (P), Hyderabad the pay of the applicant in the post of Mail Overseer was revised and fixed from 1.1.78 instead of 14.5.75 and the same has been rectified from time to time till the applicant retired from service on 30.6.94. As a result the following amounts were found to have been over paid to the applicant.

1. Excess Paid DCRG	.. 1,013-00
2. Excess Paid Commutation	.. 1,055-00
3. Excess Paid Pay & Allowances	.. 12,768-60
4. Excess Paid Encashment of Leave	.. 1,051-00
5. Excess paid Pension and relief .. (upto 31.8.95)	686-00

Total ..	16,523-60

Thus a sum of Rs.16,523-60 Ps was attempted to recover from the applicant. At that time the applicant approached this Tribunal in OA.338/96. In that OA the Tribunal directed that the respondents to effect recovery of excess amount paid to applicant only after following extant rules and giving him an opportunity to explain.

5. Accordingly a show cause notice by memo No.C/Pension/GK, dt.13.11.96 proposing to recover the sum of Rs.16,523.60Ps was issued to the applicant.

6. The applicant did not submit any representation to the show cause notice dt.13.11.96. Hence the respondent authorities by the impugned order dt.27.12.96 ordered to recover the sum of Rs.16,523.60Ps from the applicant (copy of the order is at page 6 Annex-1 to OA) in 36 instalments indicated therein, only from the relief on the pension payable to the applicant.

7. The applicant has filed this OA for the following reliefs:-

- "to quash the proceedings vide Memo No.C/Pen/GK. dt.27.12.96 issued by the Sr. Supdt. of Post Offices, Prakasham Division at Ongole (R.2) for ordering the recovery of Rs.16,523.60ps as pronounced in the Judgement in OA. No.1126/95 on 18.6.96 in the similar case of Sri T. Venkateswarlu, Retired Mail Overseer, Ongole, West Sub-Division in the interest of justice.
- Direct the Respondents not to make further recovery of

amount if any due from the pension of the applicant.

(c) Issue orders for immediate refund of the amount already recovered from the pension through PPO. No. 10829/LPR of the applicant.

8. The respondents have filed a reply. Their main contention is that at the time when the applicant was promoted to the cadre of Mail Overseer his pay was wrongly fixed w.e.f. 14.5.75 instead of 1.1.78. Thus there was wrong fixation of pay of the applicant in the post of Mail Overseer and the same was noticed by the D.A.(P), Hyderabad while settling the pension and the pensionary benefits of the applicant. Then they submitted that they revised and even recovered portion of the excess amount paid to the applicant. Further they submit as per direction in OA.338/96 they gave an opportunity to the applicant to explain and the applicant did not offer any explanation. Hence the impugned order was passed. Thus they justify the impugned order.

9. No doubt the applicant submits that fixation of pay in the cadre of Mail Overseer was not on account of any representation given by him and this was ^{done} by the authorities and that was done about 28 years ago and it may not be proper for the respondent authorities to recover the same. No doubt the applicant was not responsible in any manner for the mistake and for error committed by the respondent authorities. That apart, the respondent authorities can rectify the mistake when it came to the notice of the D.A.(P), Hyderabad. However they shall be given an opportunity to the applicant before taking any decision. Further submitted that the mistake was noticed by the D.A.(P), Hyderabad at the time of deciding pensionary benefits of the applicant. The applicant retired from service w.e.f. 30.5.1994. They calculated the excess amount paid to the applicant only with a view to give him an opportunity to submit his explanation to the show cause notice dt.13.11.95. I feel it proper to postpone the recovery as mentioned in the impugned order.

10. Hence the following directions are given:-

(a) The applicant may if so advised submit a detailed representation against the show cause notice dt.13.11.96 proposing to recover the sum of Rs.16,523.60ps, from the pensionary benefits of the applicant.

(b) He shall submit such a representation within one month from the date of receipt of a copy of this order.

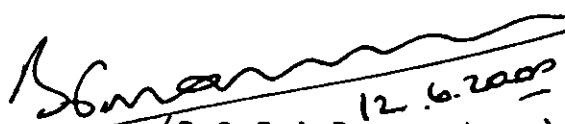
(c) In case he submits a representation against the proposed recovery to the Respondent no.2, the same shall be decided in accordance with the rules.

(d) In case the applicant fails to submit any representation against the Show cause notice dt.13.11.96 within the stipulated time the impugned order shall stands good.

(e) Till the Respondent no.2 decides the representation of the applicant, no recovery shall be made.

11. With the above directions, the OA is disposed of.

No order as to costs.


12.6.2000
(B.S.Jai Parameshwar)
Member (Jud1)

Dated: 12th June, 2000
'SA' (Dictated in open court)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH, HYDERABAD

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

COPY TO:

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE-CHAIRMAN

1. HONMJ

THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMN)

2. HRRN(ADMN) MEMBER

THE HON'BLE MR. B. S. JAI PARAMESHWAR
MEMBER (JUDL)

3. HBSJP(JUDL) MEMBER

4. D.R. (ADMN)

5. SPARE

6. ADVOCATE

7. STANDING COUNSEL

DATE OF ORDER 12/6/00

MA/RA/CP. NO.

IN

CA. NO.

1184/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO DATE

फैसले व्यापारिक अधिकार
Central Administrative Tribunal
प्रेषण / DESPATCH

23 JUN 2000

हैदराबाद न्यायपीठ
HYDERABAD BENCH