

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
HYDERABAD

OA.NO.495 OF 1999.

Date of Decision: 29-9-1999.

Between:

1. Y.Ankamma Rao.
2. A.Nageshwara Rao.
3. V.V.K.B.N.Acharya.
4. T.Samuel.
5. G.Brahmaiah.
6. V.Rami Reddy.
7. B.Mariadas.
8. S.Hanumantha Rao.
9. T.Valmiki Rao.
10. S.M.Subhani.
11. B.Lokanadham.
12. Sk.Azeed.

..Applicants

A n d

The Superintendent of Post Offices,
Guntur District, Guntur.

..Respondent

COUNSEL FOR THE APPLICANTS :: Mr.K.Sudhakar Reddy

COUNSEL FOR THE RESPONDENTS :: Mr.V.Vinod Kumar

CORAM:

THE HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN

: ORDER :

(PER HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN)

1. There are 12 applicants in this OA. They pray for a direction to be issued to the respondent-authorities to refrain from deducting any amount from their salary and to declare that the deductions so far made are illegal mainly on the ground that no notice was served upon the applicants and no opportunity of hearing was given to them before resorting to deductions.
2. The applicants claim to be working under the control of the respondent as Postmen and that all of them had put in long years of service. However, the respondent-authority is unlawfully denying the payment of full salary to the applicants with effect from October, 1998 onwards. The respondents are allegedly making deductions under AOR column in the pay slips, according to the applicants. The deductions being made from month to month vary from Rs.150/- to Rs.950/-. The details of deductions being made by the respondent (Superintendent of Post Offices, Guntur Division, Guntur) are given on page 5 of the OA.
3. Further according to the applicants, one of them submitted a representation to the respondent-authorities for not deducting the amounts from his salary on 9-3-1999 but the respondent instead of looking into the representation, replied that necessary letter in that regard be addressed to the Postmaster concerned and not to make any direct correspondence with the respondent (Superintendent of Post Offices, Guntur Division, Guntur), and therefore according to the learned Counsel for the Applicant Mr.K.Sudhakar Reedy, the applicants had no alternative but to take proceedings in this Tribunal for redressal of their grievances.



4. The respondent (Superintendent of Post Offices, Guntur Division, Guntur) in his reply statement mentions that the applicants were Extra-Departmental Agents working in Guntur Postal Division, but they were not approved candidates for Postman cadre as far as the period for which the issue in question is raised by them in this OA. The respondent (Superintendent of Post Offices, Guntur Division, Guntur), explains that since there were vacancies in the cadre of Postman in Guntur Division, pending selection by the Departmental Promotion Committee in respect of vacancies for selection on seniority basis and holding examination and announcing of results of the Departmental Examination for Departmental and ED merit quota vacancies, only as a stop-gap arrangement the applicants were permitted to work as Postmen in those vacancies on temporary basis with effect from 30-9-1996. These arrangements, however, according to the respondent (Superintendent of Post Offices, Guntur Division, Guntur), were terminated with effect from 28-9-1998. The posts of Postmen in which the applicants worked from 30-9-1996 to 28-9-1998 carried the pay scale of Rs.825-15-900-EB-20-1200 (pre-revised). Consequent upon implementation of the Vth Pay Commission recommendations, the scale of Postman was revised to Rs.2750-70-3800-75-4400/- with effect from 1-1-1996. The scale was further revised to Rs.3050-75-3950-80-4590/- with effect from 10-10-1997. It is further stated by the respondent (Superintendent of Post Offices, Guntur Division, Guntur), in his counter affidavit that the applicants were paid at the minimum of respective scale for the period concerned and that HRA, CCA and Transport Allowances were also paid to them.

5. The respondent (Superintendent of Post Offices, Guntur Division, Guntur). further mentions in his counter affidavit that the Director General, New Delhi, vide Letter No.1-3/97-PAP, dated 17-7-1998 and Letter No.Estt.III/1-11/III, dated 14-8-1998, directed that CCS (revised pay) Rules, 1997, did not apply to unapproved candidates appointed as paid substitutes in short term vacancies of Postmen and that the remuneration of the unapproved candidates

working as paid substitutes in short term vacancies had to be calculated on the basis of the minimum of the revised scale of pay of the posts as shown in CCS (RP) Rules, 1997 Plus admissible Dearness Allowances excluding HRA and CCA and that these substitutes were to be paid at the rate of $1/30^{th}$ of the pay at the minimum of the relevant pay scales plus Dearness Allowances for one full day's work and that the said orders were to be given effect from the date of issue i.e., 17-7-1998. Thus according to the respondent (Superintendent of Post Offices, Guntur Division, Guntur), since the pay and allowances were paid in excess during the period from 30-9-1996 to 28-9-1998 to the applicants prior to the receipt of the aforesaid Directorate letter dated 14-8-1998 and the excess amounts were directed to be recovered from the salary of the applicants in instalments. Further according to the respondent (Superintendent of Post Offices, Guntur Division, Guntur), when excess payment was sought to be recovered, it was not necessary to serve any notice on the applicants to show cause why recovery of excess paid should not be resorted to.

6. It is further pointed out by the respondent (Superintendent of Post Offices, Guntur Division, Guntur), in the counter affidavit that the applicants were appointed to work as Postmen as stop-gap arrangement purely on temporary basis.

7. The applicants have not filed any rejoinder refuting or dealing with the contentions raised by the respondent (Superintendent of Post Offices, Guntur Division, Guntur) in the reply affidavit. The learned Counsel Mr.K.Sudhakar Reddy for the Applicant, merely submitted that the case of these applicants was covered by the decision of this Tribunal in OA.No.1685 of 1998 and Batch, which was decided on 29-4-1999, in which it was held that 'because the recurring liability of paying wages on pro-rata basis according to the recommendations of the Vth Pay Commission had already been incurred by the Department by holding that the casual laborers were entitled to enhancement, the only point which had been hanging fire was relating to the effective date. Initially the department said

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that the effective date should be 1-11-1997 and subsequently the respondents raised a contention that the same was erroneous and directed not only that the effective date should be considered from 3-11-1998 but also that any excess payment received by the applicants on that account should be recovered from their wages'. The OA was wound up with a direction to the respondents to give the applicants the minimum of the pay scale corresponding to regular Group 'D' employees in the revised pay scale on pro-rata basis with effect from 1-1-1996.

8. The basis on which the aforesaid orders were passed by this Tribunal in the Batch cases are totally different from the cause advanced by the learned Counsel for the Applicant in this case for restraining the respondent (Superintendent of Post Offices, Guntur Division, Guntur), from making any deductions from the salary of the applicants. Apart from the same the main issue which arises for our consideration is, whether the applicants were not approved candidates to the post of Postman cadre as far as the period for which they raised the issue under question in the present OA was concerned. The learned Counsel for the Applicant has not denied or disputed the contention advanced by the respondent (Superintendent of Post Offices, Guntur Division, Guntur), that the applicants were not approved candidates.

9. It is stated in Annexure.III on page 11 of the OA, that four candidates out of 12 in the present OA, whose names were specified in Annexure.A-III, had been selected and approved for appointment to the cadre of Postman under Seniority quota against 25% of vacancies under Direct Recruitment, vide Office Memo.No.B-III/3/97-98.Seniority, dated 11-2-1999 and who had already undergone practical and theoretical training were appointed to officiate on regular basis as Postman in the time scale of pay of Rs.3050-75-3950-80-4590/- and were posted to the offices shown against the name of each incumbent from the date of his joining the post. It is reiterated in the said Order dated 23-2-1999

(Annexure.A-III) that the appointment of ED Agents was purely temporary and

was liable to be terminated at any time in accordance with the provisions of CCS (Temporary) Services Rules, 1965.

10. The learned Counsel for the Applicant Mr.K.Sudhakar Reddy during the course of his arguments produced a copy of the letter No.1-3/97-PAP, dated 27-8-1999 issued by Assistant Director General(Estt) in which it is stated as under:

"The under signed is directed to invite a reference to this office memorandum of even number dated the 17th July, 1998 on the above subject. The case has been examined in detail in consultation with Finance Advice and it is reiterated that remuneration of the unapproved candidates working as paid substitutes in short term vacancies may be calculated on the basis of the minimum of the revised scales of pay of the post concerned (Postmen, Mailguard & Group 'D', as the case may be) as shown in the CCS (Revised pay) Rules, 1997 plus admissible Dearness Allowance thereon excluding House Rent Allowance and CCA."

It is further stated in the said letter that the aforesaid orders were issued in supersession of all previous orders issued on the subject of remuneration to be paid to substitutes prior to the order dated 17th July, 1998.

11. In view of the situation now emerging from the Order dated 27-8-1999 referred to above, it is necessary that the Postmaster concerned should effectively consider the grievance of the applicants and decide the same objectively and pass a Speaking Order. It was necessary in fact for the applicants not to have initiated the present OA proceeding without exhausting that remedy and the OA in fact is not maintainable as it is premature.

12. We, therefore, believe that it would be more in the interest of the applicants to make a fresh representation to the Postmaster concerned in view of

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
the fact that, as pointed out by the respondent (Superintendent of Post Offices, Guntur Division, Guntur), the Postmaster was the Drawing and Disbursing Authority of the applicants. If such a representation is made to the concerned authority, the same should be considered by that authority in detail and to decide the same by a Speaking Order. Such representation if made by the applicants shall be received by the present respondent (Superintendent of Post Offices, Guntur Division, Guntur) and shall be forwarded within one week to the concerned Postmaster, who will consider and decide the issue within two months from the date of receipt of that representation which may be forwarded by the respondent herein. The stay on recovery shall continue till the issue is decided by the Postmaster.

13. The OA is disposed of accordingly. No order as to costs.


(D.H.NASIR)
VICE CHAIRMAN

DATED this the 29th day of September, 1999

DSN


28/9/99

1ST AND 4TH COURT

COPY TO :-

1. HCHND
2. HRRN M (A)
3. HESUP M (J)
4. D.R. (A)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

17/10/99

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

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

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

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

* * *

DATE OF ORDER: 29/9/99

MA/RA/CF. NO.

IN

CA. NO. 495/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

CP CLOSED

RA CLOSED

(6 copies)

DISPOSED OF WITH DIRECTIONS.

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS

