

CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/00138/2014

DATE OF ORDER: 21.04.2015

CORAM**HON'BLE MR. JUSTICE HARUN-UL-RASHID, JUDICIAL MEMBER**

R.S. Meena S/o Shri Giriraj Singh, by caste Meena, aged about 59 years, R/o 12, Prem Nagar, Alwar, presently working as Sub Post Master Sikri (Nagar), District Bharatpur.

...Applicant
Mr. P.N. Jatti, counsel for applicant.

VERSUS

1. Union of India through the Secretary to the Govt. of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur-7.
3. Superintendent Post Offices Bharatpur Dn. Bharatpur.
4. Post Master Deeg Head Post, Bharatpur.

...Respondents
Mr. Mukesh Agarwal, counsel for respondents.

ORDER

The main prayer of the applicant in this Original Application is to quash Annexure A/1 Notice dated 06.02.2014 and also to grant consequential reliefs.

2. The applicant was appointed with the respondent-department on 10.10.1982 and he has completed 26 years of service on 09.10.2008. At that time, the scheme of BCR

was applicable and accordingly, the applicant was allowed higher pay scale of BCR with effect from 01.01.2009. However, with the introduction of MACPs with effect from 01.09.2008, the earlier provision of sanctioning the higher pay scale under BCR was withdrawn. The applicant was considered being eligible under the MACP Scheme but since he was below the bench mark, he could not be given second financial up-gradation under MACP Scheme. Therefore, the department in the said circumstances, as submitted by the respondents, issued an order of recovery of Rs. 71,766/- against the applicant.

3. The applicant had filed an OA No. 334/2011 before this Bench challenging the order of recovery dated 21.07.2011. The Tribunal vide order dated 05th December, 2013 disposed of the OA observing that the respondents before issuing recovery order should have given a show cause notice to the applicant to comply with the principles of natural justice. Admittedly, no show cause notice was issued to the applicant with regard to the recovery or withdrawing the higher pay scale under the BCR Scheme already granted to the applicant with effect from 01.01.2009. In the circumstances, the Tribunal observed that the letter of recovery dated 21.07.2011 has been issued without following the principles of natural justice

and, therefore, it was set aside. The Tribunal further observed that the respondents are at liberty to issue a show cause notice to the applicant for recovery and proceed further in accordance with the provisions of law.

4. After disposal of the OA No. 334/2011, the Superintendent of Post Offices Bharatpur Division Bharatpur issued notice dated 06.02.2014 (Annexure A/1) informing the applicant that the benefit of pay fixation has been granted earlier to him under BCR financial up-gradation is quite irregular and due to this he has been paid excess pay and allowances and, therefore, direction was issued to the applicant to credit the excess paid pay and allowances, which he has received earlier under the BCR Scheme within 7 days on receipt of Annexure A/1 order.

5. I have heard the learned counsels for the parties and carefully examined the pleadings as well as documents available on record.

6. Annexure A/1 order is a notice for recovery issued by the Superintendent of Post Offices, Bharatpur Division, Bharatpur on 06.02.2014. The applicant is entitled to submit his reply/representation disputing the recovery initiated against him. It is for the applicant to approach the

Superintendent of Post Offices, Bharatpur Division, Bharatpur and to challenge the issuance of the Annexure A/1 notice, if he so chooses. After examining the merits of the contentions of the applicant if made in the representation, the Superintendent of Post Offices, Bharatpur Division, Bharatpur can pass an appropriate order.

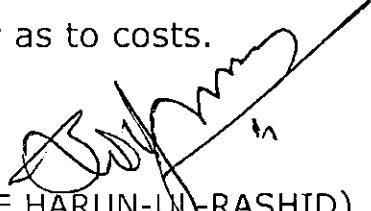
7. Therefore, in the circumstances noticed above, the applicant shall submit a reply / representation to the Annexure A/1 notice dated 06.02.2014 before the Superintendent of Post Offices, Bharatpur Division, Bharatpur within a period of fifteen days from today. In that event, the Superintendent of Post Offices, Bharatpur Division, Bharatpur shall pass a reasoned and speaking order in accordance with the provisions of law after considering his reply/representation within a period of three months from the date of receipt of a copy of representation/reply from the applicant.

8. It is made clear that the recovery initiated against the applicant under Annexure A/1 notice dated 06.02.2014 shall be kept in abeyance till the decision is taken by the Superintendent of Post Offices, Bharatpur Division, Bharatpur, as aforesaid.

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9. If the applicant is dissatisfied with the order so passed by the Superintendent of Post Offices, Bharatpur Division, Bharatpur, the applicant is at liberty to approach the Tribunal in accordance with the provisions of law.

10. Accordingly, the present Original Application is disposed of. There shall be no order as to costs.


(JUSTICE HARUN-UL-RASHID)
JUDICIAL MEMBER

Kumawat