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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.107/98

Date of order: 6/10/99

P.D.Jef, S/o Luxminarain, R/o Ajitgarh, Distt.Sikar,
Ex-Postal Assistant, Sikar Postal Division, Sikar.

...Applicant.

Vs.

1. Union of India through the Secretary to the Govt. of India, Deptt. of Posts, Mini. of Communications, New Delhi.
2. Postmaster General, Rajasthan Western Region, Jodhpur.
3. Director Postal Services, Rajasthan Western Region, Jodhpur.
4. Supdt. of Post Offices, Sikar Division, Sikar.
5. Deputy Director of Accounts (Postal) Tilak Nagar, Jaipur.

...Respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application filed under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to quash the order at Annx.A1 for recovery and two other orders as arbitrary, illegal, unconstitutional and to direct the respondents to refund the amount so recovered with interest @ 12% per annum.

2. In brief facts of the case as stated by the applicant are that while working as Postal Assistant. the applicant was removed from the service w.e.f. 21.2.89 and he was reinstated on 22.9.89. It is stated that the applicant was paid Rs.1820/- in the month of April 89 as balance in CGEI Scheme and the same was recovered from the applicant after joining by the applicant on 22.9.89. It is stated that the applicant was again removed from the service w.e.f. 19.7.96 and the Supdt. of Post Offices, Sikar, issued the orders to pay to the applicant Rs.7184/- as balance in CGEI Scheme but also issued orders for recovering the following amount vide Memo dated 13.3.97 and 21.3.97:

- (i) Rs.847/- as irregular payment of GPF
- (ii) Rs.4488/- for CGEI Scheme including interest
- (iii) Rs.621/- in connection with the quarter occupied by the applicant, in P&T Staff Colony, Srimadhapur, vide Memo dated 21.3.97.

S.K. Agarwal

It is stated by the applicant that all the recoveries are irregular and illegal. The applicant filed representation against these recoveries but the same was rejected. It is further stated that the amount has already been recovered and

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and presumably it is said that it has not recovered, it cannot be recovered now as there is no fault of the applicant and no interest can be charged from the applicant. It is further stated that the government dues cannot be adjusted against the balance of CGEIS and the applicant was not given any opportunity to show cause before effecting such recovery. Therefore, the applicant files this O.A for the relief as mentioned above.

3. Counter was filed. In the counter it has been stated that the applicant was paid Rs.1820/- on 11.4.89 on account of CGRIS after his removal from service w.e.f. 21.2.89 but on his reinstatement the applicant did not refund the said amount, therefore, this amount remain due to the applicant. The applicant was again removed from service w.e.f. 19.7.96 and he was ordered to pay Rs.7148/- as balance at his credit in CGEIS but the following recoveries were also to be made from the applicant.

- (i) Rs.4488/- as Rs.1820/- paid to the applicant in April 89 which he did not refund on his reinstatement plus interest.
- (ii) Rs. 847/- regarding irregular payment of GPF to the applicant.
- (iii) Rs.621/- towards the staff quarter which was in occupation of the applicant in P&T staff Colony, Srimadhapur.

It is stated that recovery of Rs.1820/- could not be made from the applicant due to over sight. Since the applicant himself voluntarily has credited the aforesaid amount in the Govt. account, therefore, there was no occasion for the Govt. to recover the said amount from the applicant. Therefore, this O.A is devoid of any merit and liable to be dismissed.

4. Heard the learned counsel for the parties and also perused the whole record.

5. The applicant did not produce any evidence/proof to establish the fact that after his reinstatement on 22.9.89, he paid Rs.1820/- to the respondent department which were paid to him in the month of April 89 as balance in CGEIS. after his removal from service on 26.2.89, whereas the respondents have categorically stated in the counter that due to oversight, the same could not be recovered from the applicant. Since the amount paid by the respondents department could not be recovered from the applicant after his reinstatement in the service due to oversight, therefore, the respondent department was entitled to the adjustment of this amount against the CGEIS balance payable to the applicant after his removal

Sunder

w.e.f. 26.9.96.. It is an admitted fact that the amount could not be recovered from the applicant not because of any fault of the applicant but due to the oversight of the respondent department, therefore, it is not just and proper to penalise the applicant with interest. No executive instructions or rule in this connection has been shown by the respondents so as to establish the fact that for the amount in question, the respondents are entitled to interest. Therefore, to recover interest from the applicant on Rs.1820/- paid to him on 18.4.89 is not sustainable in law/rules.

6. As regards other recoveries, no rejoinder has been filed by the applicant to controvert the respondents' version. Rs.847/- regarding irregular payment of GPF and Rs.621/- have been recovered regarding dues pertaining to the Staff Quarter allotted to the applicant in Postal Colony, Srimadhapur, for which detailed description have been given in the reply by the respondents, and no rejoinder was filed by the applicant to controvert the version of the respondents. Therefore, recovery on account of irregular payment of GPF and dues for the staff quarter allotted to the applicant at P&T Staff Colony, Srimadhapur, are perfectly justified.

7. Thus, the respondents are entitled to recover from the applicant;

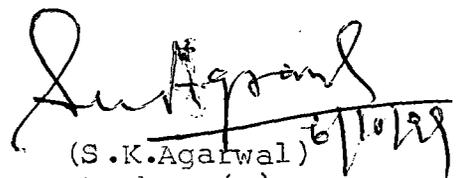
- (i) Rs.1820/- paid to the applicant on 12.4.89 but no interest can be charged on this amount;
- (ii) Rs.847/- regarding irregular payment of GPF;
- (iii) Rs.621/- regarding dues of staff quarter in Staff Colony, Srimadhapur.

Total Rs.3288/-

There has been a voluntary credit by the applicant in Govt account regarding the aforesaid three items Rs.5956/- i.e. Rs.4488.00 + Rs.847.00 + Rs.621.00, therefore, the applicant is entitled to a refund of Rs.2668/- i.e. Rs.5956.00 - Rs.3288.

8. It, therefore allow this O.A partly and direct the respondents to refund Rs.2,668/- within three months from the date of receipt of a copy of this order without interest. Thereafter, the applicant is entitled to interest @ 12% per annum from the respondents on the amount if it remains unpaid.

9. No order as to costs.


(S.K. Agarwal) 6/10/89
Member (J).