

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA 198/2003

DATE OF ORDER : 23.4.2004

Madan Lal Soni son of Shri Chauth Mal Soni aged about 54 years, resident of Dadhichi Nagar, Sikar, Voluntary Retired from the post of Postal Assistant (BCR) Saving Bank Control Organisation, Ratan Garh Head Post Office, Churu Postal Division, Churu.

... Applicant

VERSUS

1. Union of India through Secretary to the Government of India Department of Posts, Ministry of Communication, Dak Bhawan, New Delhi.

2. Post Master General, Rajasthan, Western Region, Jodhpur.

3. Superintendent of Post Offices, Churu Postal Division, Churu.

4. Director of Accounts (Postal) Jaipur.

5. Post Master, Ratangarh Head Post Office, Ratangarh (Churu).

... Respondents

Mr. C.B. Sharma, Counsel for the applicant.

Mr. N.C. Goyal, Counsel for the respondents.

CORAM:

Hon'ble Mr. M.L. Chauhan, Member (Judicial)

Hon'ble Mr. A.K. Bhandari, Member (Administrative)

ORDER (ORAL)

This application is made against the letter dated 22.6.2002 issued by respondent No. 5 whereby it has been informed that excess payment of Rs. 13,623/- on account of fixation of pay in the year 1991-92 will be recovered as per report of ITC (Pay fixation) party

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and also against reducing the pay of the applicant since 1991 on the ground that benefit of fixation under FR 22(i)(A) cannot be allowed while fixing the pay of the applicant at the time of granting two higher scale within a year before the date of increment. Copy of this has been placed as Annexure A/1. It is against this order, the applicant has filed this OA thereby praying that impugned order dated 22.6.2002 (Annexure A/1) may be quashed and set aside and the respondents be directed to refund Rs. 13,623/- recovered from the applicant alongwith interest. Further prayer of the applicant is that his pay be fixed at Rs. 6950/- instead of Rs. 6800/- w.e.f. March, 2002 to May, 2002, and he be given retiral benefits on the basis of pay fixation of Rs. 6950/-.

2. Notice of this application was given to the respondents. The respondents have filed reply. In the reply, the respondents have stated that the pay of the applicant was correctly fixed and recovery has also been effected as per rules. The respondents have further submitted that it was not necessary to ^{give notice} show cause ^{is} before passing the impugned order. The fact that recovery was effected on account of objection raised by the Internal Check party has been admitted.

3. We have heard the learned counsel for the parties.

4. The learned counsel for the applicant submits that the matter is squarely covered by the decision rendered by the Jodhpur Bench in OA No. 212/2001, R.L. Kansara vs. Union of India & Others decided on 15.03.2002 and O.P. Kalra vs. Union of India & Others in OA No. 10/2002. The Jodhpur Bench in the case of R.L. Kansara in Para No. 7 has observed as under:-

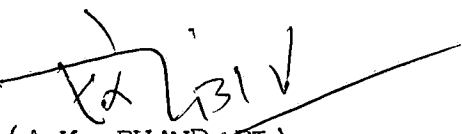
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"It is a fact that recovery of over payment has been ordered without giving an opportunity to the applicant to show cause. The orders at Annexure A/1 involve civil consequences to the applicants and, therefore, in our considered view, applicants should have been given a show cause notice before ordering recovery. Thus, without going into the merits of the case, we consider it appropriate to remit the cases back to the respondents for giving show cause notice to the applicants before issuing recovery orders. In this view of the matter, the orders dated 16.4.2001 & 12.7.2001 placed at Annex. A/1 of the respective case file, are liable to be quashed. Accordingly, we pass the order as under:-

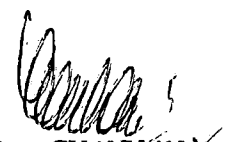
"Both the applications are allowed. The orders dated 16.4.2001 & 12.7.2001 placed at Annex. A/1 of the respective OAs, are quashed and set aside. The respondents are directed to give a show cause notice to the applicants and after considering the same, pass appropriate reasoned orders, within a period of four months from the date of receipt of a certified copy of this order. No costs."

5. We have given full consideration in the matter. We are also of the view that this matter is squarely covered by the decision rendered by the Co-ordinate Bench in the case of R.L. Kansara, as reproduced (supra). Accordingly, this OA is allowed. The order dated 22.6.2002 (Annexure A/1) is hereby quashed and set aside. However, this order will not prevent the respondents from passing appropriate order following the principles of natural justice.

6. With these observations, the present OA is disposed of. No costs.


(A.K. BHANDARI)
MEMBER (A)

AHQ.


(M.L. CHAUHAN)
MEMBER (J)