

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA 54/2003

DATE OF ORDER: 10.10.2003

K.B.L. Modani son of Shri Kishan Modani aged about 53 years, resident of 31, Ashok Vihar Colony, Ajmer. Presently working as Assistant Superintendent of Post Offices, North Sub-Division, Ajmer.

.... Applicant.

VERSUS

1. Union of India through Secretary to the Government of India, Department of Posts, Ministry of Communication, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Sr. Superintendent of Post Offices, Ajmer postal Division, Ajmer.
4. Director of Accounts (Postal), Jaipur.
5. Sr. Post Master Ajmer Head Post Office, Ajmer.

.... Respondents.

Mr. G.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 27.12.2002 issued by respondent No. 5 whereby it has been informed that the over-payment of Rs. 31,318/- on account of fixation of pay in the year 1982/1983 will be recovered as per report of ITC (Pay fixation) party and also against the reducing the pay of the applicant since 1982 by changing date of next increment without giving any opportunity of hearing to the applicant.

2. Notices of this application was given to the respondents. The respondents have filed reply. In the reply, the fact that no show-cause notice was given to the applicant has been admitted. However, it has been stated that there was no need to give notices to the applicant as the recovery was made on account of objections raised by the Internal Check Party.

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

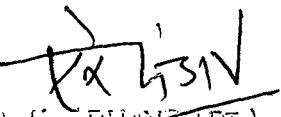
4. The learned counsel for the applicant submits that the matter is squarely covered by the decision rendered by the Jodhpur Bench in OA No. 212/2001, R.L. Kansara vs. Union of India & Others decided on 15.03.2002 and O.P. Kalra vs. Union of India & Others in OA No. 10/2002. The Jodhpur Bench in the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

" It is a fact that recovery of over payment has been ordered without giving an opportunity to the applicants to show cause. The orders at Annex. 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 coordinate Bench in the case of R.L. Kansara, as reproduced (supra). Accordingly this OA is allowed. The order dated 27.12.2002 (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. BHAMBHANI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)