

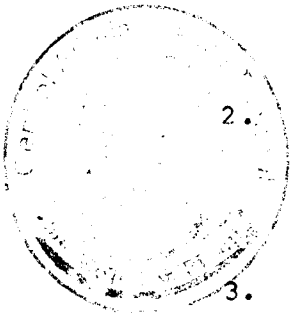
CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

O.A. No. 622/2002
O.A. No. 74/2003
O.A. No. 393/2003
O.A. No. 560/2003
O.A. No. 865/2003

Jabalpur, this the 6th day of February, 2004

Hon'ble Shri M.F.Singh, Vice-Chairman
Hon'ble Shri G.Shanthappa, Member (J)

OA No. 622/2002

- 
1. Parasram Dubey s/o Sh. Ram Lochan Dubey,
Extra Departmental Deliver Agent,
Treasurer,
Akhil Bhartiya Dak Extra Departmental
Karamchari Sangh,
Mohgaon, Distt. Mandla (MP).
 2. Akhil Bhartiya Dak Karamchari Sangh
through its Circle Secretary
Shri S.K.Nema s/o late D.C.Nema,
R/o 53, Alok Nagar,
Adhartal, Jabalpur (MP).
 3. Adkhil Bhartiya Dak Extra Departmental
Karamchari Sangh through its
Divisional Secretary - Sh. Balram Aggarwal
S/o Sh. Deepchand Aggarwal,
r/o Mohgaon, District Mandla (MP). ...Applicants

(By Advocate: Shri S.Paul).

-versus-

1. Union of India through its
Secretary,
Ministry of Communication,
Department of Posts,
New Delhi.
2. Chief Post Master General,
Chhattisgarh Circle,
Raipur (CG).
3. Senior Superintendent of Post Offices,
Balaghat Division,
Balaghat (MP). ...Respondents

(By Advocate: Shri S.A.Dharmadhikari)

OA No. 74/2003

Rameshwar Prasad Brahamwanshi
s/o late Sh. Govind Prasad Brahamwanshi,
working as EDDA/EDMC in the office of
Sakha Dak Ghar Kanann, Piparia,
Kanhawara Sub post office, Distt. Seoni and
representing as Sambhagi Sachiv of Bhartiya
Dak Karamchari Sangh, Sambhag Balaghat,
H.Q. Bhoma, Distt. Seoni (MP).

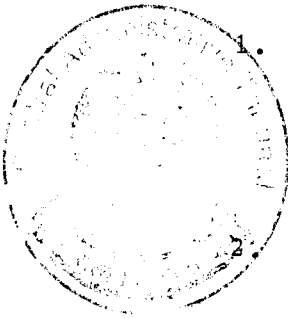
(By Advocate: Shri None)

...Applicant

-versus-

1. Union of India,
through the Director General of Posts,
Ministry of Communication,
Department of Posts,
New Delhi.
 2. The Chief Post Master General,
M.P.Circle,
Bhopal.
 3. The Chief Post Master General,
Chhattisgarh Circle,
Raipur.
 4. The Senior Superintendent of Post Offices,
Bhalaghat Division,
Bhalaghat.
- ...Respondents
- (By Advocate: Shri S.I. Singh)

OA No. 393/2003



1. All India Postal Extra Departmental
Employees Union through its
Circle Secretary K.P.Sharma,
Stamp Vendor s/o Sh. Mand Ram Sharma,
Sub Post office, H.T. Hospital,
Bhopal - 24 (MP).
 2. All India Postal Extra Departmental
Employees Union through its Divisional
Secretary, Hem Singh Thakur, EDBEM,
s/o Sh. Madhav Singh, Village & Post Sauthi,
Distt. Sehore (MP).
 3. Mohanlal Sharma s/o Sh. Ramnarayan Sharma,
EDMC (Runner), Adipur, Ashta,
Distt. Sehore (MP).
- ...Applicants
- (By Advocate: Shri S.Paul)

- versus -

1. Union of India through its
Secretary,
Ministry of Communication,
Department of posts, Dak Bhawan,
New Delhi.
2. Director General (Posts)
Department of posts,
Dak Bhawan,
New Delhi,
3. Chief Post Master General,
Madhya Pradesh Circle,
Hoshangabad Road,
Bhopal.

4. Post Master General,
Indore Region,
Indore.
5. Superintendent of Post Offices,
Sehore Division,
Sehore. ...Respondents

(By Advocate: None)

OA No. 560/2003

1. All India Postal Extra Departmental
Employees Union through its
Divisional Secretary, Gyan Chand Singroley,
s/o Sh. K.L.Singroley,
Piplani Post Office,
Bhopal.
2. Gyan Chand Singroley,
s/o Shri K.L. Singroley,
Piplani Post Office,
Bhopal (MP). ...Applicants

(By Advocate: Shri S.Paul)

-versus-

1. Union of India through its
Secretary,
Ministry of Communication,
Department of Posts, Dak Bhawan,
New Delhi.
2. Director General (Posts),
Department of Posts,
Dak Bhawan,
New Delhi.
3. Chief Post Master General,
Madhya Pradesh Circle,
Hoshangabad Road, Bhopal.
4. Post Master General,
Indore Region, Indore.
5. Superintendent of Post Offices,
Bhopal Division, Bhopal (MP). ...Respondents

(By Advocate: Shri S.P.Singh)

OA No: 865/2003

1. All India Postal Extra Departmental
Employees Union through its
Divisional Secretary Abdul Rauf Qureshi
s/o Sh. Abdul Kadir Qureshi,
Basoda Road Post Office,
Vidisha (MP).

2. Abdul Rauf Qureshi s/o Sheri Abdul
Kadir Qureshi, EDMC,
Basoda Road Post Office,
VIDISHA (MP).

...Applicants

(By Advocate: Shri S.Paul)

-versus-

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

2. Director General (Posts),
Department of Posts,
Dak Bhawan,
New Delhi.

3. Chief Post Master General,
Madhya Pradesh Circle,
Hoshangabad Road,
Bhopal.

4. Post Master General,
Indore Region,
Indore.

5. Superintendent of Post Offices,
Vidisha Division,
Vidisha.

...Respondents

(By Advocate: Shri S.F.Singh)

O R D E R (ORAL)

By M.F.Singh, Vice Chairmann -

Since the issue involved in all the cases is common and the facts and the grounds raised are identical, for the sake of convenience these OAs are being disposed of by this common order.

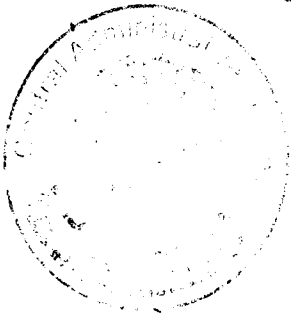
2. OA No. 393/03 will be treated as a leading case in which the applicants have claimed the following reliefs:-

3. (a) to set aside the orders dated 6/11-9-2002(A/1) 25.10.2002(A/4) and 28.5.2003(A/2) and any other consequential order passed by any subordinate authority reducing the TCRA.
- (b) command the respondents to provide the same TCRA which the GDS in MP Circle were getting after 17.12.1998 with all consequential benefits including arrears of pay and other attendant benefits.

4. The brief facts of case are that the applicants i.e. Extra Departmental Agents were earlier being paid Time Related Continuity Allowance (for short 'TRCA') on the basis of foot beat formula. From 1.11.1987, they are being paid TRCA on the basis of cycle beat formula. The said TRCA, which is being computed exclusively on cycle beat formula w.e.f 1.3.1998, has resulted in reduction of emoluments for some of the ED staff who had been appointed prior to 1.11.1987. The said ED Staff, therefore, approached the Chennai Bench of this Tribunal by filing the OA No. 1011/01 against the reduction in their emoluments and also against the order of recovery of over payments made to them because of change in the formula. The Chennai Bench of this Tribunal, vide its order dated 22.7.02 has held as under :

"It is well settled that excess payments made due to wrong construction of relevant order by the Government is not recoverable from the employees when there is no misrepresentation by the employees concerned. It has been held so in the case of Sahib Ram Vs. State of Haryana and Ors. 1995 SCC L&S-248 and in Union of India and Ors. Vs. M. Bhaskar and Others 1996(4) SCC 416, Shyam Babu Verma and Ors. Vs. Union of India and others 1994 SCC L&S 683.

As per the above judgment of the Tribunal of the Chennai Bench, no recovery was to be made for the excess payment made to the EDAs because of change of formula. In pursuance of the Tribunal's order, the respondent No.2 issued a letter to the Chief Post Master General on 6.9.02 bringing the same to their notice to ensure that the remuneration TCRA to Gramin Dak Sewaks(GDS) are calculated on the basis of actual work load as per cycle beat except for those in hilly areas, and areas where beats are not cycleable. In pursuance to the aforesaid order, the different divisions of M.P. ^{and 2} Chhattisgarh circle, have calculated TRCA on the basis of the actual work load as per cycle beat and as a result of which the allowance of the EDAs have been reduced vide order dated 28.5.03 and other similar orders issued by different divisions in Madhya Pradesh/Chhattisgarh Region



The applicants ~~were~~ adversely affected by the order issued by the respondents to make recovery of the access amount and also by reducing their allowances, which have been calculated on the basis of cycle beat and ^{that too sh} reducing their allowance unilaterally. Hence they have filed this OA claiming the aforesaid reliefs.

5. Heard the learned counsel for both the parties.

6. The learned counsel for the applicants has submitted that as far as the access payment is concerned the present case is covered by the orders of Chennai Bench of this Tribunal in OA No. 1011/01 (supra). He has, therefore, submitted that no recovery of so called alleged access payments be made from the applicants. He has also submitted that before issuing the Annexure-A-2 regarding reducing/^{been} recalculating their allowance, the applicants have not/given any opportunity of hearing. They ~~have~~, therefore, requested that the respondents be directed to issue notice to the employees so that the employees can submit their representations to the respondents and should take further action only after taking action on the representations of the applicants in this regard.

7. On the other hand the learned counsel for the respondents has submitted that the access payment has been made to the applicants by mistake and the Government reserves its right to make recovery of the over payments. In support of his claim, he has relied upon the judgment of the Hon'ble Supreme Court rendered in the matter of Nand Kishore Sharma & Ors. Vs. State of Bihar and Ors. 1996 SCC (L&S) 124.

8. We have carefully considered the rival contentions of the parties and perused the order of Chennai Bench of this Tribunal, in which the Tribunal has directed the respondents not to recover the access payment made to them. We are ~~not~~ respectfully in agreement with ^{the} findings of the

: 7 :

Tribunal in OA No. 1011/01 (supra) of the Chennai Bench and the said order is fully applicable to the issue involved in this case. As regard the judgment of the Hon'ble Supreme Court rendered in the matter of Nand Kishore Sharma (supra), we have perused the said judgment and we find that it is distinguishable and is not applicable in the present case.

9. For the reasons recorded above, we allow these OAs and direct the respondents not to make any recovery of the alleged excess payment made to the applicants. In case any recovery has already been made by the respondents, the same will be refunded to the applicants within 2 months from the date of receipt of a copy of this order. As regard recalculation of their allowance, the respondents have issued the order dated 28.5.03 (Annexure-A-2) and similar orders passed by other divisions, the respondents will issue notice to the applicants and give an opportunity of hearing to them before taking final decision on the matter.

10. The registry is directed to place a copy of this order on record in the files of all the OAs.



Sd/-
(G. Shanthappa)
Judicial Member

Sd/-
(M.P. Singh)
Vice Chairman

पृष्ठांकन सं ओ/न्या..... जलपुर, दि.....
उपनिर्देशक कार्यालय

SKM

- (1) श्री जलपुर
- (2) श्री जलपुर
- (3) श्री जलपुर
- (4) श्री जलपुर

रक्षक एवं सहायक न्यायाधीश

उप निदेशक