

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 6th day of April, 2011

Original Application No.450/2007

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

V.K.Chaurasia
s/o Late Shri M.C.Chaurasia
r/o Chaurasia Bhawan, Bapu Nagar,
Ajmer, presently retired as
BCR SA O/o SRM, 'J' Dn. Ajmer.

.. Applicant

(By Advocate: Shri P.N.Jatti)

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
3. Post Master General,
Southern Region
Ajmer.
4. Superintendent,
Railway Mail Service,
'J' Dn. Ajmer.

.. Respondents

(By Advocate: Shri Vijay Saini, proxy counsel for Shri S.S.Hasan)

ORDER (ORAL)

The short controversy involved in this OA is that the Postmaster General, Rajasthan, Southern Region has sanctioned stepping up of pay of the applicant, who is now retired, and arrears of stepping up was made to the applicant vide order dated 11.12.2006. The controversy arose when respondents vide order dated 17.9.2007 (Ann.A/1) asked the applicant to deposit Rs. 10878/- which was released vide order dated 11.12.2006.

2. The withdrawal of benefit has been challenged on the ground that while passing the order dated 17.9.2007, no reason was given as to why the applicant has been directed to deposit the money while the orders of stepping up were clearly issued in favour of the applicant.

3. An undertaking dated 22.12.2006 was given by the applicant which was placed on record as Ann.R/1 alongwith the reply filed by the respondents that he will deposit the amount of Rs. 10878/- and the same was deposited with the respondents. After depositing the same, the applicant represented before the respondents asking for refund of the aforesaid amount. Since no refund was given, therefore, the present OA has been preferred by the applicant seeking writ or direction to quash and set-aside the order dated 17.9.2007 (Ann.A/1).

4. Having heard the rival submissions of the respective parties, the applicant does not dispute the fact that he has retired after attaining the age of superannuation and the amount of Rs. 10878/-



has been deposited by him. The reason for depositing the said amount, as alleged by the applicant that the same has not been mentioned while passing the impugned order Ann.A/1 dated 17.9.2007, was assigned by the respondents in their reply that while the applicant was placed under TBOP w.e.f. 17.10.1993 he was given opportunity to exercise his option for fixation of pay but the applicant has not availed the same and has applied for voluntary retirement w.e.f. 17.8.2005 and his voluntary retirement was accepted by the competent authority and accordingly he was relieved on 17.8.2005. After his retirement applicant submitted an application dated 24.3.2006 to the Postmaster General (SR) Ajmer (respondent No.3) with the request to allow stepping up of pay at par with his junior. The respondent No.3 after considering the grievance of the applicant allowed stepping up of pay to the applicant vide memo dated 8.12.2006 from the stage of Rs. 1150/- to Rs. 1180/- w.e.f. 1.5.1986 in the scale of Rs. 975-1660, which was the date of increment of Shri A.K.Sharma, Sorting Assistant who was junior to him and directed to obtain an undertaking from the applicant before effecting payment of arrears of pay and allowance. As the applicant did not exercise any option about pay fixation, therefore, pay fixation has been re-checked and on rechecking the case of fixation of the applicant, it was found that the applicant did not exercise any option for pay fixation at the time of promotion but erroneously his pay was fixed presuming as if he has given option for fixation of pay w.e.f. 1.5.1994 and thus there was excess payment of arrears to the applicant.

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5. As discussed hereinabove, before releasing the said arrear, an undertaking was taken from the applicant that in case excess payment, if any, found to have been made to the applicant, he will refund the same and upon re-checking he was asked to deposit the excess payment vide Ann.A/1 dated 17.9.2007 and in view of the undertaking given by the applicant vide Ann.R/1, the applicant has deposited the same. The refund can only be made to the applicant if the mistake is committed by the Government in wrong fixation of pay and the excess payment can be recovered if such mistake is on the part of the employee concerned. Here in the instant case the applicant has not exercised option and under the impression that he has exercised option, excess payment has been made. As such, the excess payment made has rightly been recovered vide impugned order dated 17.9.2007(Ann.A/1).

6. In our considered view, no case of refund of the amount is made out. Consequently, no interference whatsoever is required by this Tribunal and the OA is hereby dismissed with no order as to costs.

Anil Kumar
(ANIL KUMAR)
Admv. Member

J.L.S. Rathore
(JUSTICE K.S.RATHORE)
Judl. Member

R/