

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 8th day of March Two Thousand And Eighteen

PRESENT:
THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A./310/00735/2017

V. Vasantha Rao,
Postal Pensioner,
Residing at :6, Kuppusamy Street,
Sai Nivas, Palavanthangal,
Chennai-600 114.

.....Applicant

(By Advocate : M/s. P.R. Satyanarayanan)

VS.

Union of India Rep. by

1. Chief Postmaster General,
Tamilnadu Circle,
Chennai- 600 002;
2. General Manager,
Postal Accounts and Finance
Tamil Nadu Circle, Egmore,
Chennai- 600 008;
3. Senior Superintendent of Post Offices,
Chennai City South Division,
Chennai- 600017;
4. The Postmaster,
St. Thomas Mount HPO,
Chennai- 600 016.

... ..Respondents

(By Advocate: Mr. M. Kishore Kumar)

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Heard both sides. This O.A. has been filed by the applicant seek the following reliefs:-

“to call for the records relating to impugned Proceedings No.E4/Pen/PPO-8764/LPS dated 07.02.2013 issued by the fourth respondent and confirmed by proceedings No. C/Pension/Misc/OA431/2013 dated 08.05.2017 issued by the third respondent and quash the order of recovery as arbitrary and illegal and also direct the respondents to restore the basic pension to Rs.6750/- as fixed earlier w.e.f. 01.01.2006 and also to refund the amounts so far recovered from the pension of the applicant.”

2. Learned counsel for the applicant submits that applicant's pension was refixed after the revision of pay scales based on VI Central Pay Commission Recommendations and he was being paid pension accordingly. However, alleging that the fixation was erroneous and not exactly on the replacement scale, the competent authority revised the pension downwards on account of which an amount of Rs. 62453/- was shown as recovery due from the applicant.

3. It is submitted that the erroneous fixation was not attributable to any fault or false information provided by the applicant. As such, in terms of the law laid down by the Hon'ble Apex Court in the case of State of Punjab & Ors vs. Rafiq Masih (White Washer) etc in CA No. 11527 of 2014 I Arising out of SLP (C) No. 11684 of 2012, such recovery could not be effected from the

pension. It is also submitted that the respondents failed to process the case of the recovery in terms of Department of Personnel & Training O.M.- F. No. 18/03/2015-Estt (Pay-1) dated 2nd March 2016. Accordingly, it is submitted that the applicant would be satisfied if a direction is given to the respondents to process the case in terms of the direction of the Hon'ble Apex Court in the case cited supra and DOP& T O.M. dated 02.03.2016. Counsel for the applicant also states that the applicant was not challenging the re-fixation per-se but only the recovery as a consequence thereof.

4. Learned counsel for the respondents would submit that as the applicant had clearly been over paid, recovery of the excess was inevitable.

5. I have carefully considered the matter. It is clear that in the facts and circumstances of the case, the question of recovery ought to have been considered in terms of the law laid down by the Hon'ble Apex Court in the case of State of Punjab & Ors vs. Rafiq Masih (White Washer) and the directions contained in O.M. dated 2.3.2016 of DOPT. In view of the admitted fact that this case had not been processed accordingly before ordering recovery, the impugned order with respect to recovery alone is quashed and set aside.

6. The OA is allowed in the above terms. No costs.

(R. RAMANUJAM)
MEMBER(A)

8.3.2018

asvs.