

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/01838/2017

Dated Thursday the 6th day of September Two Thousand Eighteen

PRESENT

HON'BLE MR. R. RAMANUJAM, Member (A)

&

HON'BLE MR. P. MADHAVAN, Member (J)

G.Vaitheeswaran,
S/o late Shri Ganapathy Subramaniam,
Aged about 52 years,
Working as Postal Assistant in Thuckalay HPO,
Resident of 4-9A1, Kavimani Devi Nagar,
Melaputheri, Nagarcoil 629001.

....Applicant

By Advocate M/s. K. M. Ramesh

Vs

1.Union of India,
rep by Chief Postmaster General,
Tamil Nadu Circle, Chennai 600002.

2.The Senior Superintendent of Post Offices,
Kanniyakumari Division,
Nagercoil 629001.

3.The Postmaster,
Thuckalay Head Post Office,
Thuckalay 629175.

4.General Manager (Finance & Accounts),
Postal Accounts, Tamil Nadu Circle,
Ethiraj Salai, Chennai 600008.

5.Accounts Officer,
Postal Accounts, Tamil Nadu Circle,
Ethiraj Salai, Chennai 600008.

....Respondents

By Advocate Mr. M. Kishore Kumar

ORAL ORDER

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

Heard. The applicant has filed this OA seeking the following relief :

"To set aside the impugned order bearing Memo No. AC/ICIR/2016 dated 24.10.2017 and consequently direct the 3rd respondent to pay the recovered amount of Rs. 2000/- from October, 2017 salary and pass such other order or direction as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case, award costs and thus render justice. "

2. It is submitted that the applicant was imposed with a penalty of reduction of pay from Rs. 13,210 + GP 2800 to Rs. 12740 + GP 2800 in the pay band of Rs. 5200-20200 with GP 2800 with effect from 01.01.2014 for a period of two years without cumulative effect. It was specifically stated in the order that the applicant could earn increments of pay. The said order was confirmed in appeal by the appellate authority by an order dt. 16.09.2014. Accordingly, the pay of the applicant was reduced to the lower stage with effect from 01.01.2014 and the applicant was sanctioned increment for the years 2014 and 2015. However, the 3rd respondent by impugned Annexure A3 memo dt. 24.10.2017 ordered recovery of an amount of Rs. 25,461/- stating that the increments allowed in the 2014 and 2015 were irregular. Aggrieved by the impugned order, the applicant has filed this OA.

3. Learned counsel for the applicant would argue that as the applicant had been imposed with a minor penalty along with a stipulation that he would earn increments during the currency of penalty. Increments were correctly drawn and the question of recovery should not arise. It is alleged that the respondents had

made the recovery on the basis of an audit objection which could not be sustained as the audit could not question the decision of the competent authority in quasi judicial matters such as disciplinary proceedings.

4. Learned counsel for respondents would, however, submit that audit had not questioned the disciplinary authority but had merely pointed out that the increments sanctioned and drawn during the currency of penalty were irregular in as much as payment of full pay along with increments virtually nullified the order of penalty. According to him, reduction of pay for a period of two years along with a stipulation that the applicant would be permitted to draw increments during the period of penalty could only mean that when the period of penalty was over, his pay would be restored along with the increments due in 2014 and 2015 and not that he would be granted the benefit of increments even during the currency of penalty in 2014 and 2015. The respondents had issued the order of recovery only on being satisfied that audit was correct in their objection and this is not a case of audit overruling the competent authority in disciplinary proceedings.

5. We have considered the facts of the case and submission made by the rival counsel. We are of the view that the respondents had erroneously allowed increments to be paid during 2014 and 2015 as the grant of increment while the person is under penalty would effectively nullify the penalty itself. The respondents are correct in seeking to rectify the erroneous payment of increment during the period of penalty and as such, we see no irregularity in the impugned

order. However, if there are any mistakes in calculations, working out the amount of recovery or in pay fixation after the currency of the penalty without taking into account the non-cumulative effect of the pay reduction, it is for the applicant to draw the attention of the competent authority and seek redressal. We accordingly dismiss this OA as misconceived.

(P. Madhavan)
Member(J)

(R.Ramanujam)
Member(A)

06.09.2018

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