

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : BILASPUR

ORIGINAL APPLICATION NO.203/00340 OF 2016

Jabalpur, this Wednesday, the 25th day of April, 2018

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER

Smt. Pushpawati Das, aged 70 years,
w/o Shri H.N.Das,
Retired Postal Assistant, R/o House No.34/241
Kotra Talab, Near Bread factory, P.O.Dayanand Nagar, Raipur,
Tahsil and Distt.Raipur (C.G.) Pin 492001 **- Applicant**

(By Advocate-**Shri H.N.Das**)

V e r s u s

1. Union of India, Through the Secretary, Govt. of India
Ministry of Communication, Department of Post,
Dak Bhawan, Sansad Marg, New Delhi – Pin No.100 001

2. The Deputy Director of Accounts (Postal) Department of Post,
Ministry of Communications, Govt. of India, Opposite Pujari Park,
Tikrapara, Raipur, District Raipur, Pin 492001

3. The Post Master General, Chhattisgarh Circle, Raipur
C.G.Pin-492001

4. Senior Superintendent of Post Office, Raipur Division,
Raipur C.G. Pin 492001

5. The Senior Post Master, Main Post Office, Raipur
C.G.Pin-492001 **-Respondents**

(By Advocate –**Shri Vivek Verma**)

(Date of reserving the order: 16.04.2018)

O R D E R

The applicant is aggrieved by orders dated 24.12.2014 and 29.02.2016 (Annexures A-2 & A-7 respectively) by which it has been communicated to her that while revising her pension with effect from 01.01.2006, her pension had wrongly been fixed at Rs.8937/- instead of at Rs.8210/-, hence she had been paid over payment of Rs.1,10,304/- and accordingly recovery at the rate of Rs.5000/- was directed to be made from her pension from February,2016.

2. The brief facts of the case are that the applicant while working as Postal Assistant retired on 01.08.2004. On retirement, basic pension of the applicant was fixed at Rs.5250/- as per Pension Payment Order No.P/215/III/2004-2005 (Annexure A-1), which was revised to Rs.5380/- vide PPO No.RP/PenII/PC-III/204-05 dated 28.02.2005 (which includes merger of 50% dearness relief). On implementation of the recommendations of the 6th Central Pay Commission (for brevity 'CPC') her pension was revised to Rs.8937/-. However, suddenly, without giving any opportunity of hearing, the respondents have reduced her pension to Rs.8210/- and have started recovery of alleged excess payment of Rs.1,10,304/- at the rate of Rs.5000/- per month from her pension.

3. The applicant has sought for the following reliefs:

“8.1 To call for the records of the case for kind perusal of this hon’ble Tribunal.

8.2 That the amount of Rs.1505/ from December 2014 as per annexure A2 and also rupees 1,10,304/- by way of recovery of Rs.5000/- per month from the pension of the applicant as per Annexure A7 be declared illegal and unwarranted and the same be quashed forthwith.

8.3 The recovering being made as per annexure A2 and A7 have been made without any proper calculation or proper ascertainment of any kind of excess payment with is clear from bare reading of annexure A2 and A6 which is also contrary to the principle of natural justice as no personal hearing has been made by the respondents.

8.4 Any other relief deemed fit in the facts and circumstances of the case may also be granted”.

4. Relying on the decision of the Hon’ble Supreme Court in the matters of ***State of Punjab Vs. Rafiq Masih***, (2014) 8 SCC 883, learned counsel for the applicant submitted that no recovery can be made from the applicant who is a pensioner.

5. On the other hand the respondents have submitted that applicant’s basic pension before 2006 was Rs.5380/-. This pension included dearness pay. Therefore, as per DOPT’s OM dated 01.09.2008 her pension should have been fixed at Rs.8210/-. However, her pension was wrongly fixed at Rs.8937/-. This mistake was noticed in November,2014. Consequently, a recovery of Rs.1,10,304/- was directed to be made vide impugned orders, on account of excess payment of pension from

1.1.2006. The applicant has submitted undertaking (Annexures R-3 and R-4), wherein the applicant has stated that she would be responsible for returning all the excess payment made to her. The respondents have further stated that as per Government of India's instructions [D.G.P.&T. letter No.4-4/78-TA dated the 28th March, 1978] reproduced below Rule 73 of the Central Civil Services (Pension) Rules, 1972 there may be no objection to the recovery of Government dues from the pensioner's relief without the consent of the pensioner.

5.1 The learned counsel for the respondents relied on the decision of the Hon'ble Supreme Court in the matters of **High Court of Punjab & Haryana and others Vs. Jagdev Singh**, 2016(3) SLJ 88, wherein their lordships have held that recovery from retired employees can be made, in cases where the officer to whom payment was made in the first instance was clearly placed on notice that any payment found to have been made in excess would be required to be refunded. Since in the said case the officer had furnished an undertaking while opting for the revised pay scale, it was held that he was bound by the undertaking.

6. Heard the learned counsel for parties and carefully perused the pleadings of the respective parties and the documents annexed therewith.

7. The respondents have submitted the calculation that correct amount of pension should be Rs.8210/- and not Rs.8937/-.

8. Reliance has been placed by the learned counsel for the applicant on the decision of the Hon'ble Supreme Court in the matters of **Rafiq Masih** (supra). However, the Hon'ble Supreme Court in a subsequent matter in the case of **Jagdev Singh** (supra) have held that recovery from retired employees can be made, in cases where the officer to whom payment was made in the first instance was clearly placed on notice that any payment found to have been made in excess would be required to be refunded. Since in the present case the applicant had furnished an undertaking, while opting for the revised pay scale, that she would be responsible for returning all the excess payment made to her, there is no irregularity on the part of the respondents in making the recovery in view of the decision of the Hon'ble Supreme Court in the matters of **Jagdev Singh** (supra).

9. We find that the instant case is squarely covered by the case of **Jagdev Singh** (supra). Accordingly, we do not find any justification to grant any relief prayed for by the applicant in this Original Application.

10. In the result, the Original Application is dismissed. The interim order passed earlier stands vacated. No costs.

(Navin Tandon)
Administrative Member

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