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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00641/2016

Wednesday, this the 6th day of February, 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN,	...ADMINISTRATIVE MEMBER
HON'BLE MR.ASHISH KALIA,	...JUDICIAL MEMBER

Smt.Girija V. Pillai.,
W/o late Vasudevan Pillai,
Aged 56 years, GDSMP,
Thalavady Post, Thiruvalla Division,
Department of Posts,
residing at Valiyaveettil Panayapalli,
Kavumbhagam P.O.,
Thiruvalla.

....Applicant

(By Advocate Mr.V.Sajith Kumar)

V e r s u s

1. The Union of India,
Represented by the Secretary to the
Government, Department of Posts,
Ministry of Communications,
Government of India, New Delhi- 110 001.
2. The Chief Postmaster General,
Kerala Circle,
Trivandrum – 695 101.
3. The Director of Postal Services,
HO Region, Trivandrum-695 101.
4. The Superintendent of Post Offices,
Tiruvalla Postal Division,
Tiruvalla.
5. The Postmaster,
Head Post Office,

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Tiruvalla – 689 101.

...Respondents

(By Mr. Anil Ravi, for Respondents-1to3)

This application having been heard on 1st February, 2019, the Tribunal on 6th February, 2019 delivered the following :

ORDER

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER

OA No.641/2016 is filed by Smt.Girija V.Pillai, GDSMP, Thalavady Post, Thiruvalla Division, Department of Post, aggrieved by the order issued proposing to recover an amount of Rs.37,407/- alleging that an erroneous calculation had been made with reference to the allowances paid to her consequent to refixation of TRCA. A copy of the impugned order issued by the 4th respondent dated 17.05.2016 is produced as Annexure A1. The reliefs sought in the OA are follows:

- (i) To quash Annexure A1.
- (ii) To direct the Respondent to continue to pay TRCA of Rs.3635-65-5585 to the Applicant and not to recover the amount already paid to her.
- (iii) Grant such other reliefs as may be prayed for and as the Court may deem fit to grant, and
- (iv) Grant the cost of this Original Application.

2. The applicant is the widow of late Shri Vasudevan Pillai a GDS employee who died in harness and she had been appointed under Compassionate Employment Scheme with effect from 04.01.2008. She was drawing TRCA at the rate of Rs.2870-50-4370 from the date of her initial

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appointment. However, the TRCA was revised to Rs.3635-65-5585 with effect from 01.11.2012 and her pay accordingly was refixed and drawn till April, 2016. A copy of salary bill for the month of April, 2016 is produced as Annexure A2.

3. It is submitted that the allowance came to be reduced from the month of June, 2016 and a recovery of Rs.750/- per month was ordered. A copy of the salary bill dated June, 2016 is produced as Annexure A3. The applicant is faced with extreme penury in her personal life. She does not have any children or any house or other properties. She is a heart and kidney patient and was subsisting on the salary alone. In view of all these difficulties she had filed a detailed representation before the Director of Posts, a copy of which is at Annexure A4. Subsequently, she filed another representation before the Postmaster concerned requesting him to keep in abeyance proposal for recovery till an action is taken on her representation at Annexure A4.

4. The issue, as is known to her is that the work load at Thalavady came to be reduced arbitrarily from TRCA of Rs.3635-65-5585 to the lower level of Rs.2870-50-4370. She has come to know that this was done on the basis of certain statistics which came to be revised with effect from November, 2015. The applicant had absolutely no role in the revision nor were her views solicited. The applicant is of the view that a higher TRCA is fully justified in

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accordance with the existing work load at Thalavady post office. There is a justification for departmental employee with 8 hours duty at the office and the applicant had been performing these duties which were earlier being done by an MTS/Group D.

5. The respondents have filed a reply statement wherein the contentions with regard to the work load at the applicant's Post office have been disputed. Quoting extant rules the respondents' statement describes the TRCA slabs in respect of GDSMP as follows:

Work load	TRCA slab (in Rs.)
Up to 3 hours	2295-45-3695
3 hours 45 minutes	2870-50-4370
More than 3 hours 45 minutes	3635-65-5585

6. The TRCA of a post is not fixed permanently in a particular TRCA slab and is liable to be changed in accordance with the variation in work load. The TRCA of the applicant was revised upwards with effect from 01.11.2012 vide 4th respondent's memo dated 26.02.2014. However, it was seen that this was on the basis of an erroneous estimation. The work load arrived at in respect of the applicant was found to be incorrect in view of the fact that there were only two mail exchanges dealt with by the applicant whereas it was wrongly noted as five during the periodical review referred to. Thus action was initiated by the 4th respondent to refix the TRCA of the applicant

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bringing it down to original TRCA slab of 2870-50-4370. It was seen thereupon that a higher TRCA had been inadvertently paid to the applicant upto April 2016 which resulted in an overpayment of Rs.37,407/-. Accordingly, the 5th respondent issued Annexure A1 memo informing that the overpayment was going to be recovered @ Rs.750/- per month. Aggrieved by this the applicant has filed the instant OA .

7. The respondents maintain that there had been no misrepresentation on the part of the applicant in the fixation of her TRCA. However, she cannot aver that the respondents are debarred from refixing her TRCA in the event of a mistake coming to light. Thus, the action of the respondents is neither unjust nor illegal. The respondents have taken into consideration the applicant's financial difficulties and had decided to recover this amount in relatively small monthly installments of Rs.750/-. The respondents also called to their assistance the judgment of the Hon'ble Apex Court in the case of **Syed Abdul Qadir & Ors. Vs. State of Bihar & Ors.**, and also the observation of the Hon'ble Apex Court in **SLP(C) No.30858/2011**. Both these judgments stress the rights of the respondents to effect the recovery in case there has been excess payment of public money by Government offices due to various reasons and stress the fact that the money in such situation does not belong to the payer or payee, but it is the part of tax payers' money.

8. The applicant has filed a rejoinder in which she has disputed the

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contention of the respondents that the revision was justified quoting details of receipt of mails from MMS and the time of opening of office and other duties. She goes on to argue that the duty hours were significantly more than what had been estimated by the respondents. The contentions regarding the duty time made in the rejoinder by the applicant are further disputed by the respondents by way of additional reply statement filed.

9. Shri V.Sajith Kumar, learned Counsel representing the applicant and Shri Anil Ravi, learned ACGSC representing the respondents were heard and all pleadings both oral and documentary examined.

10 The case at hand has resulted from recovery instituted by the respondents in order to recover alleged overpayment which had happened over a period of four years. The reason for such overpayment according to the respondents and as admitted by the applicant was due to the erroneous fixation of work load and duty hours on the part of the respondents. TRCA is an allowance which is granted to the employees of the Postal Department manning Branch Post Offices on the basis of the work load and is meant to be revised from time to time in keeping with addition/reduction of work load. In this case the applicant who had joined service in 2008 after being appointed under Compassionate Appointment Scheme had been fixed at the lower TRCA slab of Rs.2870-50-4370 which is for a work load extending to 3 hours and 45 minutes. However, by a revision of the same, done on the basis of a

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study report in 2012, the work load was estimated at more than 3 hours and 45 minutes and the TRCA slab was revised upwards to Rs.3535-65-5585. This came to be corrected after nearly four years and Annexure A1 order by which the recovery of excess payment made has been ordered is the result of this exercise.

11. We have no quarrel with the authorities in the manner in which the work load assessment is conducted in the respondent department based on which the TRCA slabs are slotted. At best it could be argued that the delay in correctly estimating the work load caused considerable distress to the employee concerned and inconvenience to all around. Yet we do not find anything illegal in the Department having revised the TRCA based on what they now maintain was a correct estimation of the work load.

12. However, in respect of the recovery the judgment of the Hon'ble Apex Court in the **State of Punjab & Ors. Vs. Rafiq Masih** is relevant. In this landmark judgment on the subject of recovery of sums from employees, the Hon'ble Apex Court has ruled as illegal, recovery from certain categories of employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

13. With due regard to the judgment quoted above, the applicant being an employee belonging to the lower ranks of the Postal Department, any

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recovery from her salary is impermissible. Based on the above, we find the OA has merit on its side. The respondents are restrained from instituting any recovery from the salary or other dues of the applicant on the ground of excess amounts having been granted to her due to the wrong fixation of TRCA. However, in respect of her future emoluments the respondents will be free to fix the same in accordance with the correct estimation of work load which will be reflected in TRCA granted to the applicant. The OA is disposed of with the above directions. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/00641/2016

1. **Annexure A1** – True copy of the Order No. AC/GVP dated 17/05/2016 issued by the 3rd Respondent.
 2. **Annexure A2** – True copy of the Salary Bill issued for month of April 2016 of the Applicant.
 3. **Annexure A3** – True copy of the Bill issued for the month of June 2016 of the Applicant.
 4. **Annexure A4** – True copy of the Representation dated 09/06/2016 submitted by the Applicant to the 5th Respondent.
 5. **Annexure A5** – True copy of the Representation dated 09/06/2016 submitted by the Applicant to the 3rd Respondent.
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