

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

OA No. 503 of 2013

Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)
Hon'ble Mr. Swarup Kumar Mishra, Member (J)

Bhagirathi Nayak, aged about 42 years, S/o Sri Trinath Nayak, GDSBPM, At/PO-Rohibank BO, Dist- Nayagarh.

.....Applicant

VERSUS

1. Union of India represented through its Secretary-cum-Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi – 110116.
2. Chief Post Master General, Odisha Circle, Bhubaneswar, Dist.- Khurda-751001.
3. Sr. Superintendent of Post Offices, Puri Division, At/PO/dist- Puri-752001.

.....Respondents.

For the applicant : Mr.D.P.Dhalsamant, counsel

For the respondents: Mr.B.Swain, counsel

Heard & reserved on : 17.7.2019 Order on : 26.8.2019

ORDER

Per Mr.Gokul Chandra Pati, Member (A)

The applicant has filed this OA seeking the following reliefs:-

"In view of the facts stated above, it is humbly prayed that the Hon'ble Tribunal may be graciously pleased to quash Annexure A/2 and direct the respondents not to make any recovery and refund the amount already recovered with 18% interest and protect the TRCA of applicant and impose exemplary cost & compensation.

And any other order (s) as the Hon'ble Tribunal deems just and proper in the interest of justice.

And for this act of kindness, the applicant as in duty bound shall remain every pray."

2. The applicant is the Gramin Dak Sevak Branch Post Master (in short GDSBPM) in Rohibanka Branch Office and he is aggrieved by the decision of the respondents to reduce the TRCA payable to the applicant from 1.1.2006 on the ground that the workload has reduced. When recovery was started from the month of February, 2013, the applicant submitted representation praying for stoppage of recovery. It is stated that the workload for the post has been reduced through an exercise conducted behind the back of the applicant and his TRCA has been reduced w.e.f. 1.1.2006.

3. The respondents have filed the Counter. It is stated that Directorate letter dated 9.10.2009 (Annexure-R/2), the TRCA payable to the GDSs was revised w.e.f. 1.1.2006. It was instructed to fix the revised TRCA of the GDSs on the basis of their existing workload statistics and the arrear TRCA be disbursed in two instalments. It is stated in the Counter, since the number of GDSs in Puri was quite high, there was delay in receipt of the workload statistics from the subordinate units, for which, the TRCA was revised for all the GDSs and disbursed after keeping an undertaking to refund the excess amount if it will be detected in future to have been wrongly disbursed.

4. It is stated in the Counter that the workload statistics was received and the same was forwarded to the Postal Accounts Directorate for 100% check up of the revised TRCA for the GDSs. The Directorate of Accounts, vide letter dated 21.12.2012 (Annexure-R/3), informed the excess payment made to the GDS including the excess payment of Rs. 24789/- towards excess payment for the period between 1.1.2006 to 30.9.2009 made to the applicant. Such excess payment will also be there for the period from 1.10.2009 till date is to be worked out accordingly and the said amount was directed to be recovered from the GDSs. Accordingly, the recovery of the amount as intimated in letter dated 21.12.2012 (Annexure-R/3) was started by the respondents. It is further stated in the Counter that the applicant had submitted the undertaking for refund of the excess amount if paid and hence, he is liable to refund the amount as informed by the Director of Accounts in the letter dated 21.12.2012 (Annexure-R/3).

5. The applicant had filed another OA in first round which was disposed of with a direction to the respondents to dispose of his representation. Accordingly, the respondents have passed the order dated 15.7.2013 (Annexure-A/2) rejecting the representation, which is impugned in this OA.

6. We have heard learned counsels for both the parties and perused the records. The impugned order dated 15.7.2013 (Annexure-A/2) states the following regarding the reasons for recovery in question:-

"The order of the Hon'ble Tribunal was received on 21.5.2013 and in obedience to the order no recovery has been made from the TRCA of May'2013 of the applicant. Again, in obedience to the order of the Hon'ble Tribunal, the representation dated 9.2.2013 submitted by Sri Bhagirathi Nayak to stop recovery from his TRCA and to release the amount already recovered is considered as per rules/instructions of the Department in vogue. As per the Directorate letter No. 6-1/2009-PE-II dated 9.10.2009 communicated vide the Chief Postmaster General Orissa Circle, Bhubaneswar letter No. EST/1-3/19/RLG/Ch-111 dated 16.10.2009, the Director of Accounts (Postal), Cuttack carried out cent percent verification of TRCA and the overpayments calculated from 1.1.2006 to 30.9.2009 by the Postal Accounts Office at the time of verification of TRCA of Sri Bhagirathi Nayak, GDSBPM, Rohibanka BO, the applicant of the present OA was Rs.24,789/- (Twenty four thousand seven hundred eighty nine only) which was recovered from his TRCA of January'2013

and onwards by the Postmaster, Nayagarh Head Post Office (the Drawing and Disbursing Officer) on instalment basis and accordingly his TRCA is also regulated. Again as per the instructions of the Director of Accounts (Postal), the overpayments made during the period from 1.10.2009 till December'2012 will be calculated by the DDO for recovery.

No notice, no show cause and no order was required to be issued to the applicant before starting recovery of the overpaid allowance as undertaking to the effect that 'any excess payment found to have been made as a result of incorrect fixation of TRCA or any excess payment detected in the light of discrepancies noticed subsequently will be refunded/adjusted against future discrepancies noticed subsequently will be refunded/adjusted against future payments' was obtained from the applicant under Annexure-VI of the Directorate letter mentioned above prior to disbursement of financial benefits due to implementation of RSN Murty Committee Report.

In view of the discussions made above the representation of Sri Bhagirathi Nayak is considered as per directions of the Hon'ble Tribunal vide order dated 24.4.2013 in OA No. 234/2013 and rejected."

7. It is noticed that the only reason mentioned in the impugned order for recovery is that it was pointed out by the Director Accounts, based on the workload w.e.f. 1.1.2006. It is admitted in the Counter that there was a delay in getting the workload data from subordinate offices. There was no communication to the applicant when reduction in the workload for his post was found out while assessing the workload and no opportunity of hearing was allowed to the applicant before reducing his TRCA on the basis of the reduced workload. Even the letter dated 21.12. 2012 (Annexure-R/3) has mentioned only the total amount to be recovered as the excess payment without indicating any details.

8. It is noticed that the respondents have not produced any details about the workload statistics and have not explained the reasons for delay in getting the workload details from different units. How the reduction of workload can be implemented with retrospective effect has not been explained by the respondents in their Counter. Further, in the speaking order dated 15.7.2013, no details of workload of the applicant have been considered or examined. It is seen that in letter dated 9.10.2009 (Annexure-R/2), there is no provision to recover the excess amount from the employees only on the basis of the report of the Audit.

9. In view of the above, we quash the impugned order dated 15.7.2013 (Annexure-A/2) and direct the respondents not to recover any excess amount from the applicant on account of the reduced workload applied with retrospective effect and to return to the applicant if any amount has been recovered. The OA is allowed accordingly, with no order as to cost.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)

