

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
(CIRCUIT BENCH AT SHIMLA)**

O.A.NO.063/00947/2018

Orders pronounced on: 22.8.2019
(Orders reserved on: 19.07.2019)

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MR.A K. BISHNOI, MEMBER (A)**

K.N. Sharma

Son of Sh. R.R. Sharma,

resident of Shiv Kutir,

Cemetery Sanjauli,

Shimla-6,

APM Accounts (Retired),

aged 64 years, Group-C

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Versus

Applicant

1. Union of India through Secretary, Ministry of Communication,
Deptt. Of Posts, Dak Bhawan,
Sansad Marg, New Delhi-110033.
2. Director General, Posts, New Delhi, Dak Bhawan,
Sansad Marg,
New Delhi-110033.
3. Director, Postal Services, H.P. Shimla.
4. Director of Accounts (postal), Sundernagar, District Mandi, Himachal
Pradesh-175018.
5. Senior Superintendent, Post Office, Shimla Division, Shimla-171001.

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Respondents

**PRESENT : MR. T.S. CHAUHAN, ADVOCATE FOR THE APPLICANT.
MR. ANSHUL BANSAL, ADVOCATE, FOR RESPONDENTS.**

ORDER
(BY HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)):

1. The applicant has invoked the jurisdiction of this Tribunal under section 19 of the Administrative Tribunals Act, 1985, claiming interest on refund of recovered amount of pay and allowances, and in that process has also sought quashing of the order dated 28.8.2018 (Annexure A-1), vide which his claim was declined by the respondents.

2. The facts are not largely in dispute. The applicant has retired as A.P.M. (Accounts) from the respondents on 31.12.2013. His pay was reduced from Rs.24,310/- to Rs.23,510/- and recovery was also ordered on 1.1.2014. The applicant submitted a representation against this recovery but to no avail. Then, he approached this Tribunal by filing O.A. No. 063/00174/2015, which was disposed of to consider his representation. Pursuant thereto, the respondents passed order dated 22.5.2017 accepting his representation and restoring his pay to Rs.24,310, as on 1.7.2013 and ordered to refund the entire amount of recovery. The amount of Rs.79,692/- was refunded to him on 24.5.2017. The applicant claimed interest on this amount @ 9% for the period from 1.1.2014 to 23.5.2017. He filed O.A. No. 063/01480/2017, which was disposed of on 15.3.2018, to consider his representation and pursuant thereto, respondents have passed order dated 16.5.2018 (Annexure A-1), rejecting his prayer on the ground that claim has been accepted on sympathetic grounds only as per directions of this Tribunal and there is no provision for payment of interest on such amount etc. Hence, the O.A.

3. The respondents have filed a reply opposing the claim of the applicant for grant of interest on similar lines as contained in impugned order, Annexure A-1. They submit that pay was reduced and recovery was made as per understanding of the rules by the respondents in good faith and it was only on direction of this Tribunal that a sympathetic view was taken to

restore his pay and recovered amount was refunded. There is no provision for payment of interest under extant rules.

4. The learned counsel for the applicant vehemently argued that since the respondents have used the amount belonging to the applicant and caused him wrongful loss, so they are liable to compensate the applicant by grant of interest which is opposed vehemently by other side on the ground that reduction was done in interpretation of seniority rules and there was no ill will or malafide intention on part of any of the authority of the respondents. Thus, the applicant is not entitled to any interest.

5. We have considered the submissions made on both sides minutely and gone through the submissions made on their behalf.

6. It is not in dispute that the pay of the applicant was fixed at the relevant point of time as per understand of the rules and regulations. Subsequently, some doubt arose in their mind about seniority of the applicant in relevant cadres and in particular interpretation of rules, it was found that applicant was not entitled to pay, which was reduced and recovery was ordered. However, this Tribunal in a litigation initiated by applicant, ordered that case of applicant be considered sympathetically and in pursuance thereof, the respondents passed order restoring the pay of the applicant and also refunded the amount. The question is, can the respondents be burdened with interest for the period in question during which applicant was denied use of the amount.

7. On a consideration of peculiar facts of this case, where the pay was reduced and recovery was done on the basis of interpretation of rules in a particular manner, we are of the opinion that this is not a fit case for grant of interest more so when respondents have taken a specific stand that they have refunded the amount and restored pay of applicant in 2013, on a sympathetic consideration of the case and there is no provision for grant of

interest on such like payments. In that view of the matter, we do not find any grounds made out to interfere with the impugned orders.

8. In view of the above discussion, this O.A. turns out to be devoid of any merit and is dismissed according. The parties are, however, left to bear their own costs.

(A.K. BISHNOI)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

DATED: 22.08.2019

HC*

