

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/20/1615/2013

Dated: 11/11/2019

Between

1. B. Satyanarayana, S/o. Late B. Ramulu,
Aged about 53 years,
Occ: Manager, Postal Stores Depot,
Hyderabad,
O/o the Superintendent of Postal Stores Depot,
Hyderabad ó 500 025.
2. Ch. Vijayalakshmi, W/o. D.G.N. Sarma,
Aged about 56 years,
Occ: Assistant Postmaster (Accounts),
Secunderabad Head Post Office,
Secunderabad.

... Applicants

AND

1. The Union of India rep. by its
Secretary,
Dept. of Posts, Dak Bhavan,
Sansad Marg,
New Delhi ó 1.
2. The Chief Postmaster General,
A.P. Circle, Dak Sadan,
Hyderabad ó 1.
3. The Postmaster General,
Hyderabad Region,
Hyderabad ó 500 001.
4. The Senior Superintendent of Post Offices,
Secunderabad Division,
Secunderabad ó 16.

.... Respondents

Counsel for the Applicants : Dr. A. Raghu Kumar
Counsel for the Respondents : Mr. A. Vijaya Bhaskar Babu,
Addl. CGSC.

CORAM :

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER

(Per Honøble Mr. Justice L. Narasimha Reddy, Chairman)

The applicants worked as Accountants in the Postal Department. The Special Pay was allowed to the posts held by them. According to the rules in force, if an employee has drawn the Special Pay for a period of three years, the same shall be taken into account, while fixing the pay for the post to which he was further promoted. The applicants state that their pay in the promotional post was fixed, duly taking into account, the Special Pay attached to the lower post. The respondents issued an order dated 28.5.2013, directing that immediate action to recover the excess amount drawn by the applicants shall be taken and to re-fix their salary. The same is challenged in this O.A.

5. The applicants contend that no notice was issued before the impugned order was passed.

6. The respondents filed a counter affidavit, opposing the O.A. It is stated that the very fixation of the pay of the applicants in the year 1998 was impermissible and corrective steps were taken. It is stated that the applicants

have no right to claim the salary, which was fixed wrongfully, and the plea as to non-issuance of notice is not tenable.

7. We heard Dr. A. Raghu Kumar, learned counsel for the applicants and Mr. A. Vijaya Bhaskar Babu, learned Standing Counsel for the respondents.

8. The pay of the applicants was fixed in the year 1998, on their being promoted to a higher post. The Special Pay drawn by them for a period of three years in the lower post was taken into account. In case there existed any mistake or error in fixing the salary of the applicants in the year 1998, it was always open to the respondents to correct the same by issuing a show cause notice. Further, the question of recovery would arise, if only the salary is fixed on the misrepresentation made by the applicants. The respondents straightaway issued the impugned order dated 28.05.2013 which reads as under:

*“Sub: Internal Check Inspection Report on Secunderabad
HO for the year 2001 (10/2001) – reg.*

*Reg: DAP, Hyd L No.301/CIS.I/SA V/ ICR 2001/ sdho
dated 20.05.2013.*

...

A copy of the Para No.9 of Part II-A along with Annexure-D is enclosed for taking immediate necessary action to recover the excess paid pay and allowances in r/o the following Accountants and intimate the recovery particulars for furnishing a final and conclusive reply to the DAP for admittance, since the Para is long pending.”

9. From this it is evident that it was passed only on the basis of an Internal Check Inspection Report for the year 2001. Neither the so called report was made available to the applicants nor they were issued a show cause notice. Such a unilateral action is totally impermissible in law. Further, the recovery can take place only when the fixation of salary was on the basis of any misrepresentation made by the applicants. These aspects can come into light if only the respondents had issued show cause notice to the applicants.

10. We, therefore, set aside the impugned order dated 28.5.2013 on the sole ground that it was not a show cause notice. It shall be open to the respondents to issue show cause notice to the applicants and take necessary steps in accordance with law.

11. The O.A. is accordingly allowed. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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