

(2022) 09 CAT CK 0025

In the Central Administrative Tribunal

Case No : Original Application No. 260, 00336 Of 2017

Pradipta Kumar Swain

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 16-09-2022

Acts Referred:

Citation : (2022) 09 CAT CK 0025

Hon'ble Judges : Swarup Kumar Mishra, Member (J)

Bench : Single Bench

Advocate : D.P. Dhalsamant, B. Samantaray

Final Decision : Dismissed

Judgement

Swarup Kumar Mishra, Member (J)

1. The applicant has filed this O.A. inter alia praying for the following relief:

"8.1 That the respondents be directed to credit the salary of the applicant in his account as has been credited in the month of January & February 2017.

8.2 That the respondents be directed to refund the less payment of salary amount for the month of March & April 2017.

8.3 And further be pleased to pass any order/order(s) as deem fit and proper to give complete relief to the applicant."

2. According to the applicant, he was provisionally appointed as EDDA Alavar BO in account with Balikuda SO in 1982 but after continuing for more than three years, his services were terminated on administrative ground. He challenged the said order of termination in OA 239/1988 and in pursuance of the order of this Tribunal dated 16.08.1988, applicant was again appointed in service vide memo dated 03.07.1989 (Annexure-A/1) and the applicant joined as EDDA, Srirampur BO under Tiran SO on 04.07.1989. Subsequently, vide memo dated 27.05.2012 (Annexure-A/2), the post of GDSMD, Srirampur BO was redeployed as GDS

Packer, IOCL Paradeep NDT SO and the applicant was ordered to join at IOCL Paradeep NDT SO. After joining at IOCL Paradeep NDT SO, applicant represented for his transfer on redeployment to any vacant post of Titira B.O., which was nearer to his native place. Vide memo dated 23.04.2013, applicant was directed to join at Titira BO as GDS MD and the applicant joined the said post on 26.04.2013 (Annexure-A/4). The grievance of the applicant is that although he received salary at Rs. 11,124/- for the month of January and February, 2017 but the same was reduced to Rs. 9,879/, i.e. Rs. 1485 lesser than the previous month, from the month of March, 2017 onwards without any notice or show cause. Applicant submitted representation on 09.05.2017 for restoration of his salary with further prayer not to deduct any further amount. Having received no reply, he has filed this O.A. with the aforesaid prayers.

2. The Tribunal vide order dated 24.05.2017, directed that "in the meantime, no further deduction in the allowance will be made in case of the applicant".

3. Respondents have filed their counter objecting to the relief claimed by the applicant. The sum and substance of their argument is that applicant, while working as GDS Packer at IOCL Paradeep NDT SO, vide his representation dated 30.03.2012 (Annexure-R/4) had applied for request transfer from IOCL Paradeep NDT SO to Sangrampur/Titira/Somepur Benahar/Goda B.O. under limited transfer facility. The CPMG, Odisha Circle, Bhubaneswar approved applicant's transfer to GDS MD, Titira BO in account with Borikina SO vide Circle Office Memo dated 08.04.2013 (Annexure-R/1) with one of the specific conditions that "TRCA of the new post to which the GDS is transferred shall be fixed as per the instruction contained in Directorate Letter No. 19-10/2004-GDS dated 17.07.2006 under Para 3(iii)". The applicant vide his declaration dated 23.04.2013 (Annexure-R/2) accepted the terms and conditions for transfer as mentioned in the memo of Circle Office. As per Directorate Letter dated 17.07.2006 (Annexure-R/3), on request transfer to a new post, a GDS cannot have any claim for protection of his/her TRCA drawn in the old post. The applicant was drawing TRCA @ Rs. 5045/- in the old post and his TRCA should have been fixed at the minimum of the TRCA slab in the new post depending upon the workload of the said post, i.e. at Rs. 4220/- but inadvertently, his TRCA was drawn as per his basic pay in the old pay for which excess amount of TRCA was paid to him from May, 2013 till March-2017. When the said fact came to light, the excess amount of Rs. 1485/- was deducted from his salary for the month of April, 2017 and the excess TRCA already drawn inadvertently from June, 2013 to March, 2017 is due to be recovered from the applicant. The respondents have tried to justify their action by stating that since the TRCA was regulated as per rules and as per the declaration of the applicant, there is hardly any scope of interference by this Tribunal.

4. Ld. Counsel for the respective parties were heard and records perused.

5. The sole grievance of the applicant is that without any notice or show cause his TRCA was reduced whereas the respondents have candidly submitted that the

applicant's TRCA was required to be revised/ refixed as per Directorate Letter dated 17.07.2006 due to his request transfer from IOCL Paradeep NDT SO to Titira BO as well as his declaration since the TRCA drawn in the old post cannot be protected in the new post but inadvertently the same could not be done at the appropriate time and as and when the said fact came to the notice of the respondents, they initiated action for revision/refixation of TRCA and consequent recovery. Nowhere the applicant has disputed his request transfer or the declaration given by him. Once the applicant has given declaration to accept the terms and conditions of his request transfer, he is to abide by that. Hence, this Tribunal do not find any illegality in the decision of the respondents.

6. Applicant has relied upon the decision of this Bench of the Tribunal in OA Nos. 763/2015 and 469/2017 to state that the applicant being a GDS employee, recovery at this stage will put him in undue hardships. I have gone through the aforesaid orders, which clearly shows that the facts and circumstances of that cases are clearly distinct and distinguishable, which cannot be applied in the case in hand.

7. In view of discussions made above, the O.A. being devoid of merit is dismissed. Interim order, if any, stands vacated. Parties to bear their own costs.