
(2025) 12 CAT CK 0002

Central Administrative Tribunal

Case No: Original Application No. 260, 00744 Of 2024

Rama Ranjan Mohanty

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision: Dec. 16, 2025

Hon'ble Judges: Sudhi Ranjan Mishra, Member (J); Pramod Kumar Das, Member (A)

Bench: Division Bench

Advocate: T. Rath, B.R. Swain

Final Decision: Allowed

Judgement

Pramod Kumar Das, Member (A)

1. The applicant while working as Chief Law Assistant in E.Co.Rly, BBSR, which is a Gr.C post, retired from service in the afternoon of 31.10.2023. On verification of record for release of pension and pensionary benefits, it was noticed that the applicant was entitled to 2nd financial upgradation under MACP on 26.12.2018 whereas he was granted the same w.e.f. 03.01.2018 and 3rd MACP on 24.02.2020 whereas he was granted the same on 03.03.2019 and, therefore, on rectification of the effective date of grant of 2nd and 3rd MACP, the differential amount of Rs. 2,58,983/- was recovered from his DCRG. He has also questioned the recovery of Rs. 1752/- from his salary paid to him in August, 2023 alleging excess payment made erroneously by rounding off his basic pay to the next multiple of ten during fixation of his pay during six CPC, which came into effect from 01.01.2006. The said recovery has been challenged by the applicant in this OA by stating that he was not responsible for the grant of 2nd and 3rd MACP on 03.01.2018 and 24.02.2020 respectively and, therefore, recovery of the amount from the DCRG amount, which was the means for post-retiral sustenance has put him under financial hardship and, that, the recovery is effected **ipso facto** without giving him any opportunity in compliance with the principle of natural justice/Audi Alteram Partem. Hence, by taking the support of the decision of the Honble Apex Court in the case of **State of Punjab and Ors Vs. Rafiq Masih (Whitewasher) & Ors**, (2015) 4 SCC 34, **Thomas**

Daniel Vs State of Kerala & Ors, 2022 INSC 498, and **Jogeswar Sahoo & Ors Vs The Dist. Judge Cuttack and others**, 2025 INSC 449, the applicant has filed this OA praying as under:

- (i) To quash the respective orders dated 27.10.2023 and 10.05.2024 under Annexures-A/1, A/2 and A/9 passed by the Respondent No. 2 and declare it as null and void and set aside;
- (ii) To refund the illegally deducted amount of Rs.2,58,983/- (Two Lacs Fifty Eight thousand Nine hundred and eighty three only) from the DCRG of the applicant along with penal interest @ 18% against the Respondents;
- (ii) To refund the illegally deducted amount of Rs.1,752/- (One thousand Seven hundred and fifty two only) recovered from salary of the applicant for the month of August-2023 along with penal interest @ 18% against the Respondents;
- (iv) Cost of the present case may be awarded in favour of the Applicant and against the Respondents;
- (v) Any other relief, which this Hon'ble Tribunal may deem fit, just and proper in the circumstances of the case, may also be passed.

2. It is the case of the respondents that the authority has competency to withdraw/recover any amount paid to an employee erroneously, which he/she is not entitled to under rule/law. It is stated that requirement to prior notice is not applicable in cases when recovery of the amount sought to be made, which was erroneously/wrongly paid contrary to rules and, hence, by placing the decision in the case of Chandi Prasad Uniyal & Ors. Vs State of Uttarakhand & Ors, (2012) 8 SCC 417, the respondents have stated that the recovery is justified, valid and lawful requiring no interference by this Bench. The applicant has filed rejoinder counteracting the stand taken by the respondents.

3. Heard. Perused the records.

4. The applicant did not put much focus on the rectification of the pay fixation and the dates of grant of 2nd and 3rd financial upgradations, however, he has made all endeavour to quash the recovery on the face of the decision of the Honble Apex Court in the cases **Rafiq Masih (supra)**, **Thomas Daniel (supra)**, and **Jogeswar Sahoo (supra)** more so when such recovery has put him in financial difficulty although, he did not have any attribution towards fixation of his pay on the recommendation of the 6th CPC and grant of 2nd and 3rd financial upgradations. We find that in the aforesaid decisions, the Honble Apex Court also took note of the decision rendered in the case of Chandi Prasad Uniyal (supra) and taking into consideration the decision in the case of Rafiq Masih(supra), the Honble Apex Court in the latest decision rendered in the case of Jogeswar Sahoo (supra) held as under:

18. It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

11. In the case at hand, the appellants were working on the post of Stenographers when the subject illegal payment was made to them. It is not reflected in the record that such payment was made to the appellants on account of any fraud or misrepresentation by them. It seems, when the financial benefit was extended to the appellants by the District Judge, Cuttack, the same was subsequently not approved by the High Court which resulted in the subsequent order of recovery. It is also not in dispute that the payment was made in the year 2017 whereas the recovery was directed in the year 2023. However, in the meanwhile, the appellants have retired in the year 2020. It is also an admitted position that the appellants were not afforded any opportunity of hearing before issuing the order of recovery. The appellants having superannuated on a ministerial post of Stenographer were admittedly not holding any gazetted post as such applying the principle enunciated by 13 this Court in the above quoted judgment, the recovery is found unsustainable.

5. Admittedly, in the present case, the recovery of Rs. 1752/- was made from his salary of August, 2023 for wrong fixation of his pay while implementing 6th CPC w.e.f. 01.01.2006. He retired from service in the afternoon of 31.10.2023. an amount of Rs. 2,58,983/- was recovered from his DCRG amount towards the differential amount for shifting the date of grant of 2nd MACP from 03.01.2018 to 26.12.2018 and 3rd MACP from 03.03.2019 to 24.02.2020 and, such recovery was made without complying with the cardinal principle of natural justice that too in absence of any

such allegation that such payment was made to the applicant on account of any fraud or misrepresentation made by him. It is also not in dispute that he was holding a Group-C. Thus, on examination of the facts of the matter with the conditions stipulated by the Honble Apex Court in the referred case, it is established that the case of the applicant squarely falls within the parameters fixed by the Honble Apex Court for granting him the relief claimed in this OA insofar as recovery is concerned. Hence, without interfering insofar as rectification of the pay fixation and shifting of the dates of grant of financial upgradations, we direct the respondents to refund the recovered amount to the applicant within a period of 90 days from the date of receipt of a copy of this order failing which the applicant shall be entitled to interest @ 8% per annum from the date it became due till actual payment is made and the excess amount payable to the applicant towards interest shall be recoverable from the individual responsible for the delay.

6. In the result, the OA stands allowed to the above extent by leaving the parties to bear their own costs.