

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00222/2018

DATED THIS THE 03RD DAY OF MARCH, 2020

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C.V. SANKAR, MEMBER (A)

H.S. Hungund,
S/o Sharanappa,
Aged about 59 years, retired as
Senior Postmaster,
H.P.O., Mysuru-570 001.
Residing at 4th Cross,
Vidyagiri, Bagalkot-587 103.

....Applicant

(By Advocate Shri A.R. Holla)

Vs.

1. Union of India
By Secretary,
Ministry of Communications & IT,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi – 110 016.

2. The Director General,
Dak Bhavan, Sansad Marg,
New Delhi – 110 016.

3. The Post Master General,
South Karnataka Region,
Bengaluru-560 001.

4. The Senior Accounts Officer,
O/o Post Master General,
South Karnataka Region,
Bengaluru-560 001.

.....Respondents

(By Shri Vishnu Bhat, Counsel for the Respondents)

O R D E R (ORAL)
(HON'BLE DR. K.B. SURESH, MEMBER (J)

We had earlier directed the respondents to deposit amounts due to the applicant in the form of a Fixed Deposit so that during the interregnum it will earn interest and will not be a burden to the department later on if it is found that amount has to go to the applicant. Unfortunately, maybe as an oversight or in their enthusiasm they sent the money by NEFT to the Tribunal's account and without any information on it. So, it had laid unattended in the suspense account of the bank without coming into the Tribunal's account as it was not accompanied by the required challan. Only when the yearly closing came, it became apparent that such amounts are lying in the bank intended for the Tribunal but not accounted for. Now we have passed orders for it to be re-transferred to the proper department for them to deal with it in accordance with law.

2. In the meanwhile, the allegation against the applicant was that he had appointed some GDS employees and extracted work for the department from them and they had been paid at the normal rates. Now, this is the amount which is sought to be recovered from him. But then, adopting the Shylockian terms in this matter, this amount can probably be recovered from the applicant but then, at the same time, the department will be responsible for compensating him for the work done by these people for the department and for which the department benefitted as there cannot be any illegitimate merit for the department also.

3. Even after an year had passed, these amounts are not quantified whereas day-by-day the value of money for the applicant diminishes.

Therefore, we will now pass a conditional order:

- 1) Let the respondents pay this amount to the applicant;
- 2) The applicant will give a bank guarantee of an equivalent amount to the respondents;
- 3) The respondents will quantify the loss caused to them and contr-distinguish it with the services rendered by these people to the department dehors the audit objection.

To enable this, we hold that the audit should have balanced the efforts put in by these people while holding that payments given to them were illegitimate. Without such a balancing, no audit can be complete. Therefore, with a sensitive eye, the department shall look at the audit report and need not give more importance to it than warranted by the circumstances of law in this regard.

- 4) This exercise shall be completed within the next two months but the payment as such will be paid to the applicant within one week next.

5. The OA is disposed as above. No order as to costs.

(C.V. SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

Annexures referred to by the applicant in OA No. 170/00222/2018

Annexure A1 : Copy of relevant extract of the memorandum dated 19.1.2011.

Annexure A2 : Copy of letter dated 13.2.2012.

Annexure A3 : Copy of the audit report dated 13.6.2016.

Annexure A4 : Copy of the order dated 24.1.2017.

Annexure A5 : Copy of order dated 29.8.2017.

Annexures referred to by the respondents in the Reply

Annexure R1: Copy of the letter dated 31.1.2017.

AnnexureR2 :Copy of the charge report dated 28.1.2017.

AnnexureR3 :Copy of the letter dated 22.9.2017.

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