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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1215/98 with
MA 1251, 1255 and 1256/98

New Delhi, this the 11th day of January, 1999

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI R.K. AHOOJA, MEMBER (A)

In the matter of:

1. Shri Hori Lal.
s/o Shri Babu Lal,
House No. A/73, Shanti Nagar,
Mathura (UP).
2. Shri Man Singh.
s/o Shri Mangi,
r/o village Mohsampur,
Post Office Maholi,
District Mathura (UP). Applicants

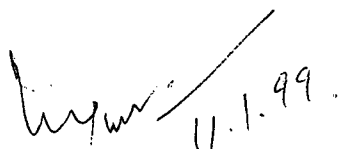
(By Advocate: Shri D.N. Sharma)

Vs.

Union of India through:

1. The Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. The Quarter Master General,
Quarter Master General's Branch,
Army Headquarters, DHQ Post Office,
New Delhi.
3. The Director General of Supplies
& Transport,
Quarter Master General's Branch,
Army Headquarters, DHQ Post Office,
New Delhi.
4. The Commandant,
Central Ammunition Depot,
Bharatpur (Rajasthan). Respondents

(By Advocate: Shri Madhav Panikar)


11.1.99.

O R D E R (ORAL)

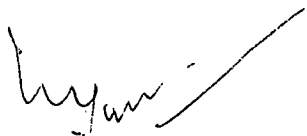
delivered by Hon'ble Shri T.N.Bhat, Member (J)

We have heard the learned counsel for the parties for final disposal of the O.A. at the admission stage itself.

This O.A. is directed against the order of the respondents by which some recoveries are sought to be made from the applicants herein. On perusal of the documents filed by the parties, more particularly the document at Annexure R-2 at page 6A of the counter, we find that five persons had been charged by the Department for having fraudulently made payments to various employees and on conclusion of the enquiry it was held that since all the charged officers had accepted their fault and had only requested for consideration of their cases sympathetically the charges were established against them. It was accordingly ordered that the amount shall be recovered from those charged officers.

Admittedly, the applicants herein were not amongst those charged officers nor had any inquiry been held against them. They had also not accepted any liability in this regard. That being so the impugned order could not have been passed against them without giving them adequate opportunity to explain.


Learned counsel for the respondents, however, draws our attention towards an order passed by a Bench of this Tribunal on RA 285/97 in OA 2578/96 by which the review application filed by one of the charged officers

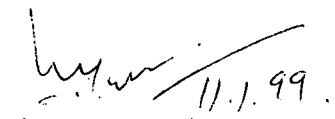


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was rejected and the judgement justifying the action of the respondents in effecting the recovery from that person was upheld. But, as already mentioned, the applicants herein were not amongst the charged officer and, therefore, the judgement in OA 2578/96 or RA 285/97 could not be made applicable to them. It is not the case of the respondents that any notice was given to the applicants herein before the order for effecting recovery from them was issued. Thus, the impugned order contravenes the principle of natural justice.

For the foregoing reasons, the impugned order so far as it adversely affects the applicants herein is quashed and the O.A. is allowed. However, this shall not debar the respondents from taking action after affording the applicants herein a reasonable opportunity of being heard. In the meantime whatever recovery might have been made from the applicants shall be refunded to them. MAs No. 1251, 1255 and 1256 of 1998 do not survive and the same are disposed of accordingly.


(R.K. AHOOJA)
Member (A)


11.1.99
(T.N. BHAT)
Member (J)

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