

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-976/98

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New Delhi this the 10th day of December, 1999.

Hon'ble Sh. S.P. Biswas, Member(A)

Sh. Bakhtawar Singh,  
S/o Sh. Govind Singh,  
C/o A.S. Negi,  
A-Block, H.No. 171, Minto Road,  
New Delhi-2. .... Applicant

(through Sh. O.P. Kalshian, advocate)

versus

1. Union of India through  
Secretary,  
Ministry of Defence,  
South Block,  
New Delhi-11.
2. The Secretary,  
Board of Control,  
Canteen Services,  
Quarter Master General's Branch,  
Army Hq. L-I Block,  
Church Road,  
New Delhi-1.
3. The Chairman,  
Board of Administration & General  
Manager,  
Canteen Store Department,  
'Adelphi' 119, Maharishi Karve Road,  
Mumbai-400020.
4. The D.G.M. F&A,  
Canteen Stores Deptt.,  
'Adelphi' 119, Maharishi Karve Road,  
Mumbai-400020.
5. The Area Manager,  
CSD Depot, Chitral Lines  
Kirby Palace,  
Delhi Cantt.-110010. .... Respondents

(through Sh. S.M. Arif, Advocate)

ORDER(ORAL)

The short question that falls for  
determination in this case is the legality of the

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respondents action contemplated in A1 communication dated 08.01.98 for effecting recovery of Rs. 25,180.95 from the gratuity of the employee who has retired on 30.11.95. The applicant is before us in a third round of litigation mentioning that the respondents attempt to effect recovery of Rs. 39,833/- from the gratuity was in violation of the principles of natural justice and constuted an illegality. That plea was decided by this Tribunal on 21.01.97 in OA-1448/96. The respondents were directed to put the applicant on notice, hear him, consider his defence and then effect recovery. The applicant thereafter followed the case by filing CP-284/97 in OA-1448/96 which was dismissed for reasons recorded in the order on 16.01.98. (26)

2. The applicant is now before us challenging A-1 order dated 08.01.98 on the basis that this should have been issued with a prior approval of the President, the applicant being a retired employee. The ld. counsel for the applicant drew our attention to Rule 9(b) of the CCS (Pension) Rules 1972 to support his contention that dues from a retired employee cannot be effected without a prior Presidential approval even in the case where the employee is not involved in a departmental or criminal proceedings.

3. We have had the opportunity of looking to the provisions of Rule 9(b). It does not touch upon


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the plea of the applicant. On the contrary, the provisions under Section 73 of the CCS CCA (Pension) Rules provides steps that could be taken by the respondents to effect legal recovery from a retiring Government servant. It mentions that the dues which have come to the notice of the Government and which remains outstanding till the date of retirement of the Government servant shall be adjusted against the amount of gratuity payable to the Government servant on his retirement. It is not in doubt that the applicant was aware of this fact that he has to pay certain dues. This is evident from applicant's appeal dated 17.09.94 where he has himself requested the respondents to adjust the amount from his gratuity. This was well before his retirement. The applicant's earlier plea that he should have been put on notice itself was, therefore, wrong. In any case if the applicant had a case that the respondents have faulted in that the Presidential sanction has not been obtained to effect the recovery, it was necessary for him to have raised the issue at least at the stage when the contempt petition was filed. The order deciding the contempt petition does not mention of the applicant having raised that issue. It appears that the applicant had suppressed the information pertaining to his appeal dated 17.09.94 ~~although~~ *although* The present plea of the applicant that the Presidential sanction should have been obtained is only an after thought.

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4. In the background of the aforesaid details, the application is dismissed with a cost of Rs.1000 against the applicant for having wasted the precious time of the Tribunal. The applicant shall pay this cost to the Secretary, Legal Aid Society with the District Court, Delhi within a period of 3 months from the date of receipt of a copy of this order.

  
(S.P. Biswas)  
Member(A)

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