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Central Administrative Tribunal
Principal Bench, New Delhi

O.A.No.1836/96

New Delhi this the 14th Day of March, 1997.

Hon'ble Dr Jose P. Verghese, Vice Chairman (J)

Shri Maharaj Singh Chauhan,
House No.C-2/57
New Ashok Nagar,
Delhi.

.... Applicant

(By Advocate : Shri M.L. Verma)

VERSUS.

UNION OF INDIA, THROUGH

1. Post and Telegraph Department
Sanchar Bhawan, New Delhi.
through its
Secretary.
2. Post Master General,
Dehradun Region, Dehradun-01.
3. Senior Post Mater,
Mujafnagar, U.P. Respondents

(By Advocate : Shri N.S. Mehta, Proxy counsel
for Shri Vijay Mehta.)

ORDER

(By Hon'ble Dr Jose P. Verghese, Vice Chairman)

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This matter is on Board for final hearing. Heard the learned counsel for the parties. On behalf of the petitioner the submission was that he retired on 28.2.95 and he was given the retirement benefits except that the respondents proceeded to deduct Rs.41027/- out of the gratuity wrongly. He is challenging the said Order of deduction on the ground that it is in violation of the rule 64 of the Pension Rules. The learned counsel for the petitioner stated that the only permissible deduction under the said rule is to the extent of 10 per cent per annum or Rs.1000/- which is less and any deduction beyond

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this permissible limit is illegal. He also submitted that an amount of Rs.1,000/- has already been deducted and an additional deduction of Rs.41,027/- is said to be in lieu of punishment which according to the petitioner, he has already been awarded and undergone by the petitioner. In the said disciplinary proceedings, after the receipt of the enquiry report, the disciplinary authority had passed an order of punishment as given on P-18 & 11 of the O.A., by which the increment of the official for a period of 7 months without cumulative effect has been withheld. After awarding the punishment and after the petitioner has suffered the said punishment, no other punishment way way deduction could have been imposed on the petitioner for the same misconduct. We see substance in the contention of the petitioner.

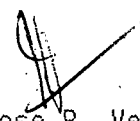
The learned counsel for the respondents on the previous date of hearing i.e. 15.1.97, had stated that the consideration of the refund of the amount in question has been actively taken up by the respondents and he would be able to communicate the result within a week. The learned counsel for the respondents today submits that no communication has been received from the parties and as such the matter may be disposed of finally..

In the circumstances the claim of the petitioner is justified and accordingly this O.A. is allowed. The respondents are directed to pay Rs.41027/- withheld, out of gratuity along with 10% interest till the date of payment. It is also directed that this order shall be complied with within four weeks from the date of receipt of a copy of this order. In the event of non-compliance,

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the petitioner shall be paid higher rate of interest
namely 18% from the expiry of the four weeks onwards till
the actual payment as directed by us. There is no order
as to costs.


(Dr Jose P. Verghese)
Vice Chairman (J)

SSS