

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

D.A.No. 1754/94

New Delhi, dated the 19th May, 1995

HON'BLE MR. S.R. ADIGE, MEMBER (A)

Shri D.S. Dutta,
S/o late Shri Teja Singh Dutta,
R/o C-7/65-B, Keshavpura,
Delhi-110035.
(By Advocate: Shri M.L. Chawla)

APPLICANT

VERSUS

1. Union of India through
the Secretary-cum-Chairman,
Telecom Board, Deptt. of Telecom.,
Ministry of Communications,
Sanchar Bhawan,
New Delhi-110001.

2. The Secretary/Member Finance,
Telecom Commission,
Deptt. of Telecom.,
Ministry of Communications,
Sanchar Bhawan,
New Delhi-110001.

(By Advocate: Shri J. Banerjee proxy
counsel for Shri Madhav Panikar) RESPONDENTS

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

In this application Shri D.S. Dutta has impugned the orders of the Respondents in making certain recoveries from him and has prayed for refund of the amount already made.

2. The applicant who is working as Accounts Officer in the Telecom. Directorate retired from service on 31.1.92 and was paid leave encashment of Rs.34,193/- equivalent to 230 unutilised E.L. at the time of his retirement. On 18.2.92 he filed a petition (Annexure A.1) alleging that there was short payment of one day leave encashment which should be sanctioned. Upon checking the position the Respondents found that the applicant had availed of 16 days Earned Leave and 70 days Half Pay Leave during the period 1.7.86 to 31.12.87, which had not been debited to his leave account while computing his leave at credit, owing to a clerical error. After rectifying the error his leave account was recast and it was found that he actually had only 149 days at his

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and thus had been paid excess leave encashment amounting to Rs.9,653/-. After further setting off the dues payable to the applicant, the net amount recoverable from the applicant is Rs.5312/- which is being recovered in 20 instalments from the applicant's pension at the rate of Rs.265/- p.m. This is the recovery which the applicant contests.

3. The applicant alleges these recoveries are illegal and mala fide, and more so no show cause was given to him and the Respondents cannot enforce recoveries contrary to their decision, published in Swamy's Pension Compilation incorporating CCS (Pension) Rules, 1992 Edition under Rule 64 Page 143. Reliance has also been placed by the applicant's counsel on the ruling in Smt. Marwah Vs. UOI ATJ 1993 (2) P. 401.

4. None of these grounds urged by Shri M.L. Chawla are tenable for the reason that it is upon the applicant's own petition dated 18.2.92 claiming one day's short payment that the matter was examined, and the error was detected. Information was sent to the applicant on 9.4.92 that excess payment of Rs.9653/- had been made and was requested to make the payment to which he also submitted a representation on 30.4.92 (Annexure A.3) which was ^{duly} considered and rejected on 6.5.92 (Annexure A.4). The relevant Govt. decision cited by Shri M.L. Chawla cannot under no circumstances be construed to ^{mean} ~~leave~~ that clerical errors, which result in overpayment of public money to the individuals cannot be corrected and recoveries effected. Moreover, as stated above in this particular case the Respondents acted upon the applicant's own request for ^{re calculating} ~~rejecting~~ his leave encashment amount. Further more, from his letter dated 26.5.92 it is clear that the applicant has not denied the overpayment but only prayed for recoveries at a lesser monthly rate. In view of the fact that neither rules or instructions or ^{the ruling} ~~for that matter~~ in Smt. Marwah's case (Supra) ~~does not~~ ^{does not} help the applicant, and the recoveries are being made at as ^{low} ~~low~~ ^a monthly rate as is feasible, having

to ^{fact that the} regard ~~that~~ the applicant has retired from service, this
application ^{requires} ~~no~~ ^{interference} judicial ~~action~~. This O.A. fails and is
dismissed. No costs.

GK

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(S.R. ADIGE)
Member (A)