

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1043 of 2000

New Delhi, this the 12th day of December, 2000

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Mukesh Kumar
House No.176, Block-III
Khurtana Mohalla
Dehradun

-APPLICANT

(By Advocate: None)

Versus

1. Post Master General
Dehradun Circle
Dehradun
2. Sr. Supdt. of Post Offices
Dehradun Circle
Dehradun
3. Post Master HS.G.II
Dehradun Cantt.
H.O. Dehradun
4. C.M.O.P & T
Dispensary Dehradun

-RESPONDENTS

(By Advocate: Shri D.S.Jagotra)

O R D E R (ORAL)

By Hon'ble Mr.Kuldip Singh, Member (Judl)

The applicant is aggrieved of the demand-cum-show cause notice dated 10.5.2000 issued by respondents for initiation of disciplinary action and making recovery of an amount of Rs.35,170/-, reimbursed to the applicant in connection with treatment of his mother.

2. Facts in brief are that applicant who is employed as Postal Assistant in Dehradun Cantt., H.P.C. Dehradun, had been claiming reimbursement on account of medical expenses, which according to him, he had made on the treatment of his mother. The applicant claims that he had been looking after his mother since 1996 till her

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death. The mother of the applicant was suffering from Kidney failure and was being kept on dialysis, regularly. The applicant had taken his mother to CGHS dispensary from where his mother was referred to Doon hospitals and from Doon hospitals, she was referred to private hospitals, where the dialysis facilities were available. A sum of Rs.35,170/- was paid to the applicant for using medical facilities. Vide impugned order, the respondents have issued a show cause notice to the applicant as to why disciplinary action should not be initiated against him and simultaneously directed the applicant to deposit the sum of Rs.35,170/- which had already been paid to him for using medical facilities. The applicant has challenged this order.

3. In the grounds to challenge the impugned order, the applicant has submitted that the impugned show cause notice is contrary to the facts of the case and, therefore, liable to be quashed. It is submitted that the impugned demand recovery-cum-show cause notice is based on conjectures and contrary to the material evidence placed on record. It is further submitted that the respondents have not given any cogent reason for deleting the name of applicant's mother from the dependent list of the applicant. It is also submitted that before issuing the impugned show cause notice, respondents had already formed an opinion to recover the sum of Rs.35,170/- from the applicant.

4. The O.A. is contested by respondents. They have taken the plea that this OA is not maintainable as the applicant has made a blatant attempt to defraud the

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P&T department by using medical facilities available only to P&T employees' genuine dependant family members. They have submitted that applicant through a false declaration, obtained medical facilities and also huge medical reimbursement by stating that his mother was dependant upon him whereas she was actually dependant on her husband who was a well paid Central Govt. employee drawing Rs.9700/- plus allowances, who the applicant had declared to be earning less than Rs.500/- p.m. The respondents have also pleaded that applicant who is an employee of postal department, had applied for P&T dispensary Card stating that his mother Smt.Ram Murti Pundir was dependent upon him. P&T dispensary card was issued to the applicant on the strength of his declaration that his mother was wholly dependant upon him and that his father's total income did not exceed Rs.250/- p.m. Subsequently, the applicant applied for addition of the name of his wife Smt.Shobha Pundir as family member and again gave a declaration that his mother was dependant upon him and that his father's total income did not exceed Rs.250/- p.m. However on enquiry, it was revealed that father of the applicant Shri Padam Singh was a Central Govt. employee earning Rs.9700/- p.m. plus allowances.

5. I have heard Shri D.S.Jagotra, learned counsel for the respondents. None appeared for the applicant even on the second call.

6. As for the status of applicant's mother Smt.Ram Murti for whose treatment the applicant had been claiming reimbursement, that has not been denied by

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respondents. The only dispute is regarding false declaration made by the applicant to the extent that his mother was wholly dependant upon him since it was revealed on enquiry, that father of the applicant was a Central Government employee and was drawing Rs.9700/- p.m. plus other allowances. The applicant had given a false declaration that his father's monthly income was below Rs.250/-. However, from the perusal of impugned order (Annexure 'A'), I find that the department had found on some enquiry that applicant's mother was actually dependant upon her husband Shri Padam Singh who was drawing Rs.9700/- p.m. plus allowances. It appears from the impugned order that the enquiry had been conducted at the back of the applicant and he had never been issued a show cause notice before conducting such an enquiry nor he had been given an opportunity to participate in the enquiry to defend his case. Last para of the impugned order at Annexure 'A' also shows that some preliminary enquiry had been conducted against the applicant and on the basis of the same, the respondents had decided to recover an amount of Rs.35,170/- from the applicant.

7. I am of the opinion that the impugned order regarding recovery of an amount of Rs.35,170/- from the applicant without even giving a show cause notice to him, is in violation of principles of natural justice and thus, it is liable to be quashed. I, therefore, allow the O.A. and quash the impugned order dated 10.5.2000. The respondents will however be at liberty to hold an

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enquiry against the applicant and may proceed with recovery only after giving a show cause notice to him.
No costs.

Kuldeep
(KULDIP SINGH)
MEMBER(JUDL)

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