

Central Administrative Tribunal
Principal Bench

O.A. No. 121 of 2000

New Delhi, dated this the 12th APRIL, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Chhatar Singh,
s/o late Shri Bihari Singh,
Incharge, Telegraph Office,
Modinagar, U.P.

.. Applicant

(By Advocate: Mrs. Rani Chhabra)

Versus

1. Union of India through
the Secretary,
Ministry of Communications,
Sanchar Bhawan, New Delhi.
 2. The Chief General Manager (West),
Dehradun.
 3. The General Manager,
Telecom District,
Ghaziabad, U.P.
 4. The Sub-Divisional Engineer,
Telegraph Traffic,
G.M.T.D., Ghaziabad.
 5. The Sub-Divisional Officer (Phones),
Rajnagar, Ghaziabad, U.P.
 6. The Vigilance Officer,
C.G.M.T., Dehradun,
U.P.
- .. Respondents

(By Advocate: Shri K.R. Sachdeva)

ORDER

S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated
1.12.99 (Annexure I) ordering recoveries of
Rs.23,608.50p. from his salary in 16 monthly
instalments.

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2. Applicant was chargesheeted under Rule 16 CCS (CCA) Rules on 4.12.95 for permitting deposit of hard cash on account of telephone bills payment of Telegraph Office, Modinagar against instructions in State Bank of India, Modinagar and further to deposit the government amount of Rs.41,578/- in State Bank of India, Modinagar.

3. Applicant submitted his defence on 26.12.95, upon consideration of which the disciplinary authority by order dated 13.5.96 (Annexure P-5) inflicted the penalty of censure, and further directed that Rs.18,000/- be recovered in 36 monthly instalments commencing May, 1996 and the balance of Rs.23,608.20 (Rs.41,608.50 - Rs.18,000/-) was recommended for being written off.

4. This recoverable amount of Rs.18,000/- was related to 1/3rd of basic pay (excluding DA or any other allowance) in terms of D.G. P&T's O.M. dated 17.8.71 (Annexure R-1). Meanwhile consequent to the increase in the basic pay, pursuant to the 5th Pay Commission's recommendations, orders in respect of which issued on 3.11.97 (Annexure R-II) respondents state that they have issued impugned order 1.12.99 for recovery of the balance of Rs.23,608.20.

5. Heard both sides.

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6. The order dated 13.5.96 passed by the disciplinary authority is a quasi-judicial order passed in accordance with the provisions of the CCS (CCA) Rules, and any order which seeks to modify the decision contained in the order dated 13.5.96 can be passed only in accordance with, to the extent permitted, and by following the procedure set out in those rules. Furthermore, the recovery of the balance amounts of Rs.23,608/- from applicant which clearly amounts enhancement of the penalty without even putting applicant to notice, and giving him a reasonable opportunity of being heard, is clearly violative of the principles of natural justice and is, therefore, not sustainable in law.

7. Under the circumstances, the O.A. succeeds and is allowed to the extent that the impugned order dated 1.12.99 is quashed and set aside. Any recoveries made from applicant in respect of the sum of Rs.23,608.00 shall be refunded to him by respondents forthwith. In the event respondents seek to alter the decision taken by disciplinary authority vide his order dated 13.5.96, which has been passed in accordance with the provisions of the CCS (CCA) Rules, they shall do so strictly in accordance with law. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)
karthik

S.R. Adige

(S.R. Adige)
Vice Chairman (A)