

(16)

Central Administrative Tribunal, Principal Bench

Original Application No.2576 of 2000

New Delhi, this the 2nd day of August, 2001

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. S.A.T. Rizvi, Member (A)

Harsh Vardhan Agarwal S/o Shri R.K. Agarwal
R/o 550, Sahukara, Bareilly presently
employed at Malaria Research Centre,
Shahjahanpur (U.P.)
under Indian Council of Medical Research
New Delhi

- Applicant

(Appeared in person)

Versus

1. The Director General
Indian Council of Medical Research,
Post Box-4508, Ansari Nagar,
New Delhi-29

2. The Director
Malaria Research Centre
22, Sham Nath Marg,
Delhi-54

- Respondents

(By Advocate: Ms. Anuradha Priyadarshini)

O R D E R (ORAL)

By Justice Ashok Agarwal, Chairman

Applicant is an employee of respondent no.2. He had earlier instituted Miscellaneous Case No.44/95 before the Presiding Officer, Labour Court, U.P. Bareilly under Section 33 C(2) of the Industrial Disputes Act for recovery of an amount of Rs.38,964/-. Pending the aforesaid application, respondents paid over the said amount to the applicant. Aforesaid Miscellaneous Case No.44/95 was accordingly disposed of by an order dated 15.4.96 at Annexure A-4 by recording that "the employer has filed an application that the workman has been paid a sum of Rs.38964/-, which was due for payment." Thereafter the respondents on 28.6.99 have deducted the aforesaid amount from his bill salary no.192. Aforesaid deduction which has been made without putting the applicant to notice, is

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impugned in the present OA.

2. Respondents in their counter have sought to justify the aforesaid deduction by contending that when the aforesaid amount was paid over to the applicant, the same was on the basis of his last pay drawn at Rs.3350/- ^{when his certificate re. last pay drawn had not been received} Certificate in regard to his last pay drawn ^{shows the same} was later found to be Rs.3200/-. Based on the calculations, the aforesaid overpayment has been recovered. Aforesaid facts are disputed by the applicant.


3. In our view, it was not open to the respondents to make aforesaid deductions without putting the applicant to notice and without giving him an adequate opportunity. In the circumstances, the aforesaid deduction cannot be justified as the same has been done without following the principles of natural justice. Respondents are accordingly directed to refund the said amount to the applicant. This be done expeditiously and within a period of three months from the date of receipt of a copy of this order. It is clarified that it will be open to the respondents to take the steps in accordance with law after giving due notice and after giving a personal hearing to the applicant in respect of the aforesaid proposed deduction.

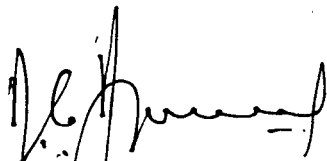
4. Applicant has also made a claim for interest at the rate of 10% per annum. He makes a statement that in case he is ultimately found liable to refund the aforesaid amount, he can also in turn be made to pay interest at the

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same
rate to which he agrees to pay. In the circumstances, we
direct the respondents to pay over the aforesaid amount
alongwith 10% interest per annum.

5. Present O.A. is allowed in the aforestated
terms with no order as to costs.


(S.A.T. Rizvi)
Member(A)


(Ashok Agarwal)
Chairman

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