

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

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O.A.No. 1279/92.

DATE OF DECISION 24.8.93SHRI Y.P. SURI,

Petitioner

SHRI B.K. BATRA,

Advocate for the Petitioner(s)

Versus
UNION OF INDIA & OTHERS

Respondent

MRS. SUNITA RAO,

Advocate for the Respondent(s)

CORAM**The Hon'ble Mr. B.S. Hegde, Member (Judicial)****The Hon'ble Mr.**

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

J_U_D_G_E_M_E_N_TDelivered by Hon'ble Shri B.S. Hegde, Member (Judicial) 7

The applicant has filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying for the non-disbursal of his retirement benefits and to quash the impugned order dated 11.8.1990 and also to refund a sum of Rs. 16,154/- illegally deducted from the amount of D.C.R.G. He has also requested to direct the respondents to pay interest on Rs. 41,910/- from February, 1989 to January, 1990.

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2. The applicant retired from Government service on 31.1.1989 and except some portion of death-cum-retirement gratuity amount i.e. Rs. 16,154/- all other retirement benefits have been paid to the applicant. The applicant contends that the impugned order dated 11.8.1990 does not indicate the details of the amount due to him and the recovery is to be made. Unless, issue of show-cause notice and determine the amount, the respondents are not within their right to deduct any amount. As a matter of fact, before the date of his retirement, handing-over and taking-over charge have been arranged with effect from 14.1.1989 which was completed on 8.3.1989 after his retirement. He had given the required list of materials/items which was accepted and got acknowledged by the staff and the concerned Stock Verifier, Shri V.M. Sundaram who completed the stock verification on 14.1.1989 and Shri K.K. Gupta his successor stated taking over on the same date i.e. 14.1.1989. In fact, the stock verification did not show any big shortage in the stock sheet prepared by him.

3. The respondents have not filed their reply despite many opportunities given to them. During the

course of hearing, the respondents submitted and conceded that a sum of Rs. 16,154/- has been withheld on account of certain shortages while the applicant was incharge of the store. Normally, when a person is incharge of the Store, Department should invariably get the verification done before the retirement of the concerned person and the handing-over and taking-over should be completed before the persons retirement.

Nothing has been brought to the notice of the applicant before retirement. Therefore, the respondents are not justified in with-holding a sum of Rs. 16,154/- in lieu of DCRG amount adjusting towards the alleged discrepancy. It is on record that he has not received any show-cause notice nor indicated any deficiency before his retirement. Even if there is some shortage whether they can be recovered from the DCRG without any notice as a penal amount. Now the point is clear in view of the Supreme Court's decision in D.V. Kapoor's case that no amount can be deducted even by way of penalty. Before fixing the liability of dereliction of duty against the applicant, the respondents should make certain enquiries under the Disciplinary and Appeal Rules which they have not done in the instant case.

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4. In view of the above, the application is allowed and I direct the respondents to refund the balance amount of DCRG with interest of 10% within a period of two months of receipt of this order. The claimant has also sought for the interest of the entire DCRG amount withheld by the Department for a period of one year i.e. from February 1989 to January 1990. Since there is no plausible explanation from the Respondents for not making payment in the circumstances of the case it is just and proper, to award interest at the rate of 10% from February 1989 to January 1990 for withholding DCRG amount of Rs.41,910/-.

No costs.

B.S. Hegde 24/8/93
(B.S. Hegde)
Member (J)