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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1741/93.

New Delhi, this the 18th day of April, 1994.

SHRI J.P.SHARMA, MEMBER(J).

Shri S.K.Shukla,
S/o late Shri H.H. Shukla,
R/o E-869, Saraswati Vihar,
Delhi-110034.

...Applicant

(Applicant in person)

VERSUS

1. Union of India,
through Secretary
to Govt. of India,
Ministry of Home Resources Development
(Department of Education),
Shastri Bhawan,
New Delhi-110001.
2. The Principal Director,
D.A.C.R. - II, (A.G.C.R. Building),
New Delhi.
3. The Director of Education,
Govt. of N.C.T. Delhi,
Old Secretariat, Delhi-110054.

...Respondents

(By advocates : Mrs. Meera Chhibar for
respondents no.1 and 3.
Mr. Jog SINGH for respondent no.2)

O R D E R

SHRI J.P.SHARMA :

The applicant has since retired on 30-6-91 as Additional Director of Education (Schools), Education Department, Delhi Administration. An amount of Rs.15,000/- was ordered to be withheld from the D.C.R.G. of the applicant. The applicant has assailed the order of withholding of his DCRG to the extent of Rs.15,000/- and prayed that the respondents be directed to pay the sum of Rs.15,000/- along with 18% interest per annum from 6-7-91 till the date of payment. However, during the course of the arguments, the applicant who appeared in person did not press the relief for award of interest and only confined his case to the payment of Rs.15,000/- which has been withheld by the respondents.

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2. The facts of the case are that the applicant while working as Joint Director of Education (Planning) during 1987-88, he was allowed the services of Government jeep. An audit objection was raised by the audit ACR-II in respect of the journeys by the Government vehicle by the applicant in the capacity of Joint Director of Education. The audit report revealed that the log book no.DHC-6192 vehicle had been leaving the garage at 7 A.M. in the morning to pick up Shri Shukla from his residence at Saraswati Vihar to office and back to Saraswati Vihar and then to garage at 8-9 P.M. During this period of 1987-88, the vehicle was used by the officer alone and covered about 6,000 kilometres which cannot be treated as official journey. The recovery of the amount @ Rs.2.50 per kilometre for 6,000 kilometres was to be made from the officer. The applicant represented in December, 1988 that he should be furnished the details of the entries of the log book and that he never used the vehicle for any purposes other than the official purposes. The applicant was not given any details thereof. Hence, he filed the present application. The applicant has also represented that besides him, the then Joint Director (Planning) and six other officers of the Directorate of Education were using the vehicle. A perusal of the log book will establish that fact.

3. The respondents, however, contested this application and stated that the log book was not available as the driver of the said vehicle DHC-6192 has since retired. The break-up of the 6,000 km.s could not be furnished to the applicant in the absence of log book.

4. The applicant also filed the rejoinder and reiterated the same facts.

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5. I heard the applicant and learned counsel for the respondents at length and perused the records. By the order dated 27-8-93, the Bench directed the respondents to produce the log book for the relevant period for which the respondents have set up a claim against the applicant for Rs.15,000. The respondents have been given adequate opportunity but even at the time of hearing on 13-4-94, the log book or the details of journey performed by the applicant other than for official purposes has not been furnished. In view of this, it is evident that the respondents cannot set up a claim against the applicant unless the applicant is furnished the details of the private journey performed by him. Merely because the audit has raised an objection that the vehicle has covered a distance of 6,000 kilometres during the year 1987-88 would not by itself be a just ground to recover this amount from the applicant. Further, under Rule 71 of the CSS (Pension) Rules, 1972, it was a duty of the office to ascertain the dues payable by the government servant due for retirement. The respondents have not furnished the said details of the dues till the applicant superannuated on 30-6-91. In fact, the applicant's date of superannuation was 31-12-91 but under orders of the court, he has continued to work till 30-6-91. In any case, there was sufficient time for the respondents to ascertain the dues against the applicant and they have not done it when the applicant was in service. Even when the audit took place from 16-5-88 to 17-6-88, the report of the audit was not seriously followed at a time when the applicant was in service. The excuse given by the respondents that the driver has since retired and the log book was not available cannot be taken a sufficient ground to recover the amount from the applicant which has not been established. The principle of natural justice requires

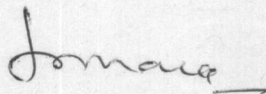
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that the dues outstanding against the applicant should have been ascertained with certain amount of evidence and the same should have been furnished to the applicant for verification. It would be only thereafter that the amount can be levied as dues against the Government servant.

6. In view of the above facts, the withholding of Rs.15,000/- from the DCRG of the applicant is not justified.

7. The application is, therefore, partly allowed. The respondents are directed to release the withheld amount of DCRG adjusted towards certain dues and the same be paid to the applicant within a period of three months from the date of the receipt of a copy of this Order. However, no interest is allowed to the applicant but if the amount is not paid within this period, then the respondents shall pay interest at the rate of twelve per cent per annum till the date of payment. Parties to bear their own costs.



(J.P.SHARMA)

MEMBER (J)

'KALRA'