

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 2nd day of June, 2000.

Original Application no. 146 of 1998.

Hon'ble Mr. S.K.I. Naqvi, Judicial Member

Hon'ble Mr. M.P. Singh, Administrative Member.

Prakash Narain Sachan,
S/o Sri Ram Ratan,
R/o Sawaipur, P.S. Sajetipur,
District Kanpur Cantt.

... Applicant

C/A Shri R.K. Tewari

Versus

1. Union of India,
through Secretary Ministry of Communication,
New Delhi.

2. Superintendent,
Post Offices,
Fatehpur.

3. Collector/District Magistrate,
Fatehpur.

... Respondents.

C/R Sri S.C. Tripathi
Sri K.P. Singh

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Hon'ble Mr. M.P. Singh, Member-A.

The applicant has challenged the order dated 07.01.1998 passed by the respondents for recovery of Rs. 4,46,000/- from him.

2. The brief facts of the case are that the applicant has been working as Sub Post Master in the Sub Post Office, Bindiki, Fatehpur since 15.6.93. One Shri Sultan Ahmad presented Kisan Vikas Patra having its number 35EB/969591 to 969600 of Rs. 5000/- each denominated at the sub post office Bindiki Fatehpur. The allegation against the applicant is to the effect that he discharged the certificate and made the payments to Sultan Ahmad without making proper verification and without obtaining the signature of witnesses and as such applicant has committed an offence punishable under section 409/419/420/467 and 468 of I.P.C. A case has been registered against the applicant as case Crime No. 338 of 1997 at P.S. Bindiki District Fatehpur.

3. The applicant sent the application of Sultan Ahmad containing all the details of the Kisan Vikas Patra as required under the rules by the registered post to the Post Office Sahatwar, Ballia for the purpose of verification for payment on 28.04.1997. The applicant received the communication from the post office Sahatwar, Ballia confirming that the certificates were purchased from the post office Sahatwar and the officer at the post office Sahatwar verified the signature of Mr. Sultan Ahmad. After receiving the information of confirmation regarding the genuineness of the Kisan Vikas Patra and

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the signature of Mr. Sultan Ahmad the holder of Certificate, the applicant made the payments to the holder of the certificate Mr. Sultan Ahmad.

4. By order dated 15.09.1997 a disciplinary proceeding is contemplated against the applicant and the applicant has been placed under suspension. Applicant has also stated that without completing the inquiry or investigation and submitting the charge sheet or serving the Charge Sheet the respondent no. 2 passed an order dated 07.01.1998 for the recovery of Rs. 4,46,000/- from the applicant contrary to the provisions of law. Aggrieved by this the applicant has filed this O.A. seeking direction to the respondents no. 2 and 3 not to recover the amount from the applicant as per order dated 07.01.1998. He has also sought direction to respondent no. 2 to pay the suspension allowance to the applicant.

5. The respondents have stated in their reply that in this case the application was neither despatched by registered post for verification nor received back by registered post. In fact there is no record showing despatched/received of this application by Bindki P.Os. But this application containing fraudulently verification report of office of registration i.e. Sahatwar (Ballia) was found alongwith paid vouchers. During investigation of the case S.P.M. Sahatwar P.O. Ballia denied sale of KVPs. These facts arose doubt about the integrity of the applicant in this case. In view of the above quoted lapses, the applicant was

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placed under suspension vide memo no. F-5/2/97-98 dated 15.09.1997 and charge sheet had also been issued to the applicant on 2.3.98 under RI 3538 dated 2.3.1998. It is also worthwhile to mention here that further as per direction of D.P.S Kanpur who was investigated this case, order for recovery of amount of loss involved in this case was issued under PAD Act to recover amount of loss from the official involved in the case who not only committed contributory negligence in encashment of these fraudulently issued KVPs at Bandki P.O.'s but whose integrity was also found doubtful. It is further submitted by the respondents that the order of payment of subsistence allowance has already been issued vide this office letter no. F-5/2/97-98 dated 22.09.1997 and the applicant has been drawing his subsistence allowance. He has not exhausted the departmental channel and directly approached the Central Administrative Tribunal.

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6. Heard Shri R.K. ^{learned counsel for the applicant} and Shri S.C. Tripathi, learned counsel for the respondents and perused the record.

7. The respondents vide para 13 of their reply have stated that the order of the recovery was passed under PAD Act which is not within the jurisdiction of the Tribunal. During the course of arguments learned counsel for the respondents took this plea and he drew our attention to the Judgment of this Tribunal dated 31.05.99 in OA 220 of 1998. The question for consideration before us ^{was} as to whether the subject ^{matter} of this application is covered by ^{the} definition "Service Matters" and is within the jurisdiction of the Tribunal.

8. 1998 All India Service Law Journal 302 Madan Lal Mishra versus Superintendent of Post Offices and others in which it is held that recovery proceedings under PAD Act is not a "service matter" and does not fall within the jurisdiction of the Tribunal, hence not maintainable.

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9. C.A. 471 of 1996 Raja Ram Saroj Versus Union of India and others was decided on 24.09.96 by the Lucknow Bench of the Central Administrative Tribunal. The said order was the subject of S.L.P. no. 1505/97 and the Apex Court of the land has held as under:-

"In the impugned judgement the Central Administrative Tribunal has observed that the matter of recovery that is being effected against the petitioner under the provisions of the Public Accountant Default Act and the Revenue Recovery Act and it can not be said to be a service matter cognizable before the Tribunal. We do not find any infirmity in the said view of the Tribunal. It would be open to the petitioner to seek redress in an appropriate forum. The special leave petition, is, therefore, dismissed."

In view of the law laid down by the Lordships of Supreme Court as stated above, the prayer of the applicant for quashing of recovery proceedings against him is dismissed as not maintainable.

10. The applicant has also claimed the relief regarding payment of suspension allowance. We do not proceed to decide the same in view of Rule 10 of Central Administrative Tribunal (Procedure) Rules 1987 which lays down that:-

"An application shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one another."

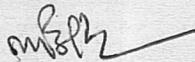
11. The order by which the recovery is ordered, suspension has not been ordered. Hence it is not based on single cause of action.

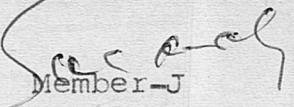
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12. In the result the O.A. is liable to be dismissed as this Tribunal has no jurisdiction in respect of recovery proceeding and the applicant is at liberty to move the proper forum for the said relief regarding the payment of suspension allowance. The applicant may file if advised as separate O.A. Parties to bear their own costs.

13. In view of the above the O.A. is dismissed.


Member-A


Member-J

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