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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 16TH day of NOVEMBER 2006.

Original Application No. 787 of 2005.

Hon'ble Justice Khem Kheran, Vice-Chairman
Hon'ble Mr. P.K. Chatterji, Member-A

Jaipal Singh, S/o Sri Chet Ram,
R/o Mohalla Than Singh Pilibhit (UP),
Retired on 31.05.05 from the Post Mail Overseer Head
Post Office Phlibhit. (UP)

. . . . Applicant

By Adv: Sri R.C. Pathak

V E R S U S

1. Union of India, through the Secretary,
Ministry of Communication, Department of Posts,
Sanchar Bhawan,
NEW DELHI.
2. The Post Master General (PMG), Bareilly Zone,
Department of Post Civil Lines,
Bareilly Cantt.
3. Senior Superintendent of Post Offices/
O/o Senior Superintendent of Post Offices,
Bareilly Division,
Bareilly.
4. The Post Master, Head Post Office,
Pilibhit


. Respondents

By Adv: Sri S. Singh,

O R D E R

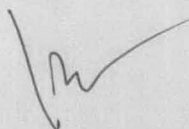
Hon'ble Mr. Justice Khem Karan, VC

In short the case of the applicant is that
amount due to the UP Postal Primary Cooperative Bank
Ltd. Bareilly cannot be recovered from the DCRG of
the applicant. It appears that one Nand Kishore, a



postal employee and member of the said Cooperative Bank, took certain loan from it and the applicant and another stood sureties to him by executing a bond, copy of which is annexed as Annexure A-13. Annexure A-12 is the copy of the personal agreement of late Shri Nand Kishore. Before Nand Kishore could pay the said loan, he expired. The applicant also retired on 31.05.2005. In accordance with the relevant rules, the applicant was to be paid DCRG and other pensionary benefits. It appears that the respondents attempted to recover the amount of Rs. 40,500/- which was due from late Shri Nand Kishore and his heirs, from the gratuity payable to the applicant and thereupon, he filed this OA with the prayer that the order dated 31.05.2005 (Annexure A-1) of Senior Superintendent of Post Office (SSPO) Bareilly directing for recovery of the said amount from the applicant's gratuity be quashed and respondents No. 3 and 4 be commanded to make payment of DCRG with 18% penal interest.

2. By interim order dated 20.07.2005, this Tribunal provided that till the next date the amount of Rs. 40,500/- shall not be recovered from the DCRG of the applicant. This interim order was extended from one date to another. The respondents filed reply contending inter-alia that as per the terms of the seruetty bond this amount was recoverable from the DCRG of the applicant. According to them, once

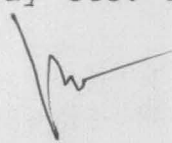


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the applicant promised that in case the borrower fails to repay the said amount or any instalment thereof, surety would, on demand jointly or severally pay the same from his pay or leave salary or any money due to him or otherwise. They say that after such promise having been given in writing, the applicant cannot say that the said amount cannot be deducted from his DCRG.

3. Sri R.C. Pathak appearing for the applicant has contended that there is no controversy on the point that UP Postal Primary Cooperative Bank Ltd. Bareilly is a separate legal entity to the Government of India or its department and so any amount due to the said bank, cannot be recovered from DCRG of a retired employee. Sri Pathak has also referred to Govt. of Indias decision conveyed through letter dated 31.08.1960 issued in clarification of Rule 73 of CCS (Pension) Rules. Sri Pathak argues that this clarification of the Govt. is clear on the point that such amount as due to third bodies like Cooperative societies, local bodies etc. cannot be recovered from the DCRG of any servant, as it is not a government dues.

4. Sri S. Singh has tried his best to convince us otherwise, by saying that once the applicant executed the surety bond (Annexure A-13) promising to pay the loan from his pay etc. he cannot reside

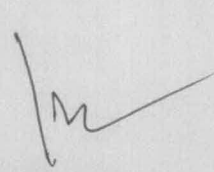


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from that promise by saying that the same or any part of unpaid loan cannot be deducted from the his DCRG. Sri Singh has further stated that such recovery has already been made from the dues of the other surety. Sri Singh has also stated that the applicant cannot successfully say that he has ^{under} ~~not~~ [§] under obligation to pay unpaid part of the loan.

5. We have considered the respective submissions of the parties counsel. We are not on the question as to whether the loan or any part of the loan, which late Nand Kishore or his heirs could not pay, can be recovered from the applicant, who stood surety to Nand Kishore, in the context of that loan. We are purely on the question as to whether any part of that loan, could be recovered by the official-respondents, from DCRG of the applicant. The payment of DCRG is regulated by a set of rules and the clarifications, issued from time to time. It is never the case of the respondents that amount of Rs. 40,500/- is due to the Government. We are of the view that the amount due to the third party like cooperative society, bank etc. cannot be treated to be 'government dues' and so cannot be recovered from the DCRG of retired employee. As stated earlier, we are not expressing any view on the question as to whether the applicant is liable to ^{pay} ~~pay~~ that amount to the bank and whether the bank can recover it in the manner permissible under law. [§] ~~Though~~ Sri



Pathak, by referring to the contents of Annexure A-12, has tried to say that the bank cannot proceed against the applicant, without first attempting to get the amount recovered from the heirs of Nand Kishore. *We do not express our view on that point.*

6. In the result the order dated 31.05.2005 (Annexure A-1) passed by SSPO Bareilly is quashed with a direction to him to ensure payment of DCRG to the applicant, which may be admissible under the Rules, without making any deduction of the amount of Rs. 40,500/-. This shall be done within a period of two months from the day of service of copy of this order on him. No cost.

[Signature]
Member (A)

[Signature]
16.11.06
Vice-Chairman

/pc/