

Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

...

Original Application No. 85 of 1992

this the 26/8 day of August 2004.

HON'BLE MR. JUSTICE S.R. SINGH, V.C.  
HON'BLE MR. D.R. TIWARI, MEMBER(A)

Prakash Chandra Srivastava, S/o Late Prithvi Nath, R/o  
982 Malviya Nagar, Allahabad.

Applicant.

By Advocate : Sri S.K. Pandey.

Versus.

1. Union of India through Senior Superintendent of Post Offices, Allahabad.
2. State of U.P. through Collector, Allahabad.
3. Tehsildar Chail, Tehsil Chail, District Allahabad.

Respondents.

By Advocate : Ms. S. Srivastava.

O R D E R

BY JUSTICE S.R. SINGH, V.C.

This O.A. is directed against the citation of recovery dated 25.11.1991 issued under the provisions of U.P. Zamindari Land Abolition Act whereby the applicant was directed to deposit a sum of Rs. 30,395/- by the date mentioned in the citation. The recovery sought to be quashed is being made under the provisions of Public Accounts Default Act, 1850 read with U.P. Zamindari Land Abolition Act, 1950.

2. A preliminary objection has been raised on behalf of the respondents that the present O.A. is not maintainable since the proceedings for recovery under the provisions of Public Accounts Default Act, 1850 read with U.P. Zamindari Land Abolition Act, 1950 is not a service matter cognizable

by the Central Administrative Tribunal. Reliance is placed on the decision of CAT (Lucknow Bench) in the case of Madan Lal Misra Vs. Supdt. of post offices & others (1998 (2) SLJ CAT 302). The learned counsel for the applicant, however, submitted that the matter is cognizable by the Tribunal being covered by residuary clause (v) of Section 3 (q) of Administrative Tribunals Act, 1985. The learned counsel for the applicant has also placed reliance on the decision of Allahabad High Court passed in Civil Misc. writ petition no. 8807 of 1998 in the case of Krishna Pal Singh Vs. Union of India & ors. Reliance has also been placed on the decision of the Tribunal (Allahabad Bench) in O.A. no. 436 of 1998 decided on 11.3.2002.

3. We have given our anxious consideration to the submissions made across the bar.

4. Challenge to the recovery proceedings is on the ground that no direction was given by the Disciplinary Authority or the Appellate Authority for recovery of the amount allegedly embezzled by the applicant and further that no liability of any kind has been fixed by the Disciplinary Authority or the Appellate Authority by orders annexed as Annexure nos. A-2 & A-3 respectively. The O.A. preferred against the order of dismissal from service date, 1.12.1989 and on dated 27.8.1990 passed by the PMG, Allahabad in appeal preferred against the order of dismissal from service thereby dismissing the appeal and maintaining the punishment awarded by the SSPC has been dismissed by a separate order of date. The applicant has been held guilty of embezzlement and the loss referred by the Govt is sought to be vide impugned citation of recovery.

REJ

We find no justification to interfere with the impugned citation for recovery. It may be observed that recovery certificate issued by the postal authorities has not been impugned nor has it been brought on record. The OA is, therefore, liable to be dismissed.

5. In view of the above, we find no merit in the O.A. The same is accordingly dismissed. Parties are directed to bear their own costs.

*Adeem*  
Member (A)

*RJ*  
Vice-Chairman

Girish/-