

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 1754 OF 1994

TUESDAY, THIS THE 17TH DAY OF DECEMBER, 2002

HON. MRS. MEERA CHHIBBER, MEMBER (J)

1. Shri Amarvir Singh  
S/o Shri Survir Singh  
r/o 21, Park Road, Dehra Dun  
and at present working as Surveyor  
in No.68(Tidal) Party, G&RB, Survey of India,  
Dehra Dun.
  2. Shri V.P.Thapliyal  
s/o Shri Teeka Prasad Thapliyal  
r/o T/11/39, Survey Estate, Hathibarkala,  
Dehra Dun and at present working as  
Surveyor in NO.20(Photo) Party (N.C.)  
Survey of India, Dehra Dun.
  3. Shri Bal Krishan  
S/o Shri Faquir Chand  
r/o Type-II-7, GBO Compound, Dehra Dun  
and at present working as Topo Aux.Gde.  
II in No.68(Tidal) Party, G&RB, Survey  
of India, Dehra Dun.
  4. Shri Ramash Chandra  
S/o Shri Bachhi Ram  
R/o H-29, Hathibarkala Estate  
Dehra Dun and at present working  
as Topo Aux-Gde.II in No.68(Tidal)  
Party, G&RB, Survey of India,  
Dehra Dun.
  5. Shri Budhi Prakash  
S/o Late Shri Shi Dutt Bhuguna  
r/o 32, Chukuwala, Block-I, Dehra Dun  
and at present working as Topo Aux.Gde.II  
in No.68(Tidal) Party, G&RB, Survey of  
India, Dehra Dun.
  6. Shri Ram Charan  
S/o Late Shri Jhuma Singh  
r/o House No.81/1, Dr. Ambedkar  
Nagar and at present working as  
Topo Aux. Gde.II in No.68(Tidal)  
Party, G&RB, Survey of India,  
Dehra Dun.
  7. Shri Chaman Lal  
S/o Shri Bhawani Prasad  
R/o 371, Old Dalanwala, Dehra Dun  
and at present working as Topo  
Aux.Gde.II in No.68 (Tidal) Party, G&RB  
Survey of India, Dehra Dun.
  8. Shri Som Raj  
S/o Late Shri Amar Chand  
r/o 48, Old Dalanwala, Dehra Dun  
and at present working as Topo Aux.  
Gde.II in No.68 (Tidal) Party, G&RB,
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Survey of India,  
Dehra Dun.

9. Shri Bahadur Singh  
S/o Shri Ram Kishan  
r/o Village Banyiaawala,  
Prem Nagar, Dehra Dun and at present  
working as Topo Aux.Gde.II in No.68  
(Tidal) Party, G&RB, Survey of India,  
Dehra Dun.
10. Shri Holi Ram  
s/o Late Shri Sarju  
r/o Barighat, Dila Ram Bazar,  
Dehra Dun and at present working as  
Regular Khalasi in No. 68 (Tidal)  
Party, G&RB, Survey of India,  
Dehra Dun.
11. Shri Jeet Singh  
s/o Shri Jagat Singh  
r/o Ram Nagar, Ladpur,  
Raipur Road, Dehra Dun and at  
present working as Regular Khalasi  
in No.68 (Tidal) Party, G&RB,  
Survey of India, Dehra Dun.
12. Shri Madan Lal  
s/o Shri Nathu Prasad  
r/o Village Nayagoan, Kanwali  
P.O. Hauderwala, Dehra Dun and at  
present working as Regular Khalasi in  
No.68 (Tidal) Party, G&RB, Survey of India,  
Dehra Dun.
13. Shri Daya Ram  
s/o Shri Shankar  
R/o Chander Road, Nai Basti,  
Dehra Dun and at present working as  
Regular Khalasi in No.68 (Tidal) Party,  
G&RB, Survey of India, Dehra Dun.
14. Shri Shish Pal  
s/o Shri Raghu Nath Singh  
r/o Ram Nagar, Ladpur, Dehra Dun  
and at present working as Regular  
Khalasi in No.68 (Tidal), Party,  
G&RB, Survey of India, Dehra Dun.
15. Shri Dhani Ram  
s/o Shri Patbi Ram  
r/o 59, Rajee Nagar,  
Talli Kandoli, Dehra Dun and at  
present working as Regular Khalasi  
in No.68 (Tidal) Party, G&RB,  
Survey of India Dehra Dun.
16. Shri Chinta Mani  
s/o Shri Buta Ram  
r/o J-85, Block II, Mathi barkala  
Estate, Dehra Dun and at present working  
as Regular Khalasi in No.68 (Tidal) Party,  
G&RB, Survey of India, Dehra Dun.
17. Shri Madan Singh  
s/o Shri Jamani Singh  
r/o Village Sondhowali, P.O. Tapoban,  
Amwala, Dehra Dun, Retd. Group 'D'  
from No.68 (Tidal) Party, G&RB,  
Survey of India, Dehra Dun.

.....Applicants.

(By Advocate : Sri A.K. Gaur)

Versus.

1. Union of India represented through the Secretary to the Govt. of India, Ministry of Science & Technology, Technology Bhawan, New Mehrauli Road, New Delhi.
2. The Surveyor General of India, Survey of India, Mathibarkala, Dehra Dun.

.....Respondents.

( By Advocate : Sri A.A. Sthalakar )

O R D E R (Oral)

BY HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

By this O.A, applicant numbering in 17, have challenged the letter dated 19-8-1994 and similar letters written to the other applicant by which the recovery on account of advance which were paid to Government Servant during 1979-86 were said to be outstanding. Therefore, they were directed to deposit the same within a stipulated period failing which the said amount was to be recovered from their salary. The applicants have challenged the said action of the respondents by submitting that no show cause notice was given to the applicants nor any details were given as to how the said amount is due from the applicant and for what period and <sup>this for Rs issued Rs</sup> was only because there was an Audit Report which carried out its audit on 9-5-1989 to 15-5-1989 and pointed out number of irregularities with regard to the TA advances shown to have been given to

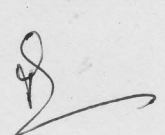




~~not~~ number of officials but <sup>were</sup> ~~where~~ otherwise shown ~~in~~ bill in the Register. Therefore, the Audit Party had observed prima-facie the fraud/cheating appears on the part of the ~~then~~ cashier who was also responsible for the maintenance of the Register of TA/LTC advances but the involvements of the beneficiaries namely the persons who actually draw such advances can also not be ruled out in any case. Therefore, they had suggested <sup>that</sup> ~~ing~~ that the matter needed proper and thorough investigation through a higher level of Enquiry headed by some responsible Class I Officer for the full period during which the then cashier was holding the charge in the unit (Page 31 Para-2). Learned counsel for the applicant has drawn my attention to ~~the~~ Para 1 on page 31 of the O.A where in Audit party had observed as under:-

"Bogus adjustments as reflected/entered in the register of T.A Advances but were found fictitious on actual verification (ii) outstanding Advances against officials which were stated to have either not been received by them or the amount refunded in cash to the cashier by them but no receipts (TR-5) were issued to them and (iii) Detail of Advances though drawn & paid to officials but not entered in the Register, as parts (A), (B) and (C) of the Annexure-A respectively."


It is submitted by the applicant <sup>counsel</sup> ~~that~~ <sup>^</sup> thereafter no investigation were carried out nor any enquiry was held giving any opportunity to the applicants to rebut the allegations if any made against them but they were <sup>straightaway</sup> ~~directed~~ <sup>^</sup> to deposit the amount failing which it was stated the same would be recovered from their salary. It is submitted



by the applicant's counsel that the law is well settled that no recovery ~~is~~ can be made without following due process of law or principles of natural justice. Thus they have sought quashing of the said letter and to direct the respondents to release the amount withheld from any of the applicants on account of this recovery in ~~any~~ case

*any of* the applicants had already retired.

2. The respondents in the counter have submitted that pursuant to the report given by the Audit party disciplinary proceedings were initiated against the government servant namely Smt. Sitabai Head Clerk and Shri Ghanshyam Das U.D.C (Cashier) but both were exonerated by OC NO. 69 party under as order number 1433/17 A-2 dated 29-10-1991. Similarly there was a vigilance case initiated against Shri Arun Kumar who was the Superintendent Surveyer but ultimately it was decided to close the case against him also as intimated by the Surveyer General of India under his letter dated 24-10-1994 (Annexure CA-13). As ~~for~~ as applicants are concerned they have submitted that if the applicants had refunded the amount they should have taken receipt from the cashier and since amount were due against the applicant . There was no need to give show cause notice and the letters issued to the applicants are valid and justified.





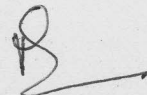
3. I have heard both the counsel and perused the pleadings.

4. Admittedly, the whole thing sprung up after the Audit Party gave its report in the year 1989 and as per the audit party's report the main culprit was the then cashier who had not maintained the Register properly and it was only passing <sup>a</sup> reference or <sup>were</sup> ~~was~~ observation that the audit party had observed that the beneficiaries' involvements also cannot be ruled out but audit party had suggested a thorough investigation of the matter to reach to the route of the matter but it seems thereafter no investigation were carried out in as much as the applicants were not given any opportunity to defend their case <sup>or</sup> ~~and~~ to rebut any allegations which <sup>if they may have B</sup> ~~even~~ made against <sup>the applicants</sup> ~~them~~ (by the other officials namely the UDC and the cashier). Admittedly, the respondents initiated disciplinary proceedings against Smt. Sitabai Head clerk and U.D.C as well as superintendent surveyor but all to them had been either exonerated ~~or~~ cases dropped against them and no action has been taken <sup>against</sup> ~~is~~ anyone of them. It is not the case of respondents that they had given any opportunity to the applicants in <sup>or B</sup> ~~this~~ case <sup>PS</sup> ~~to~~ showed how these amounts are due against the applicants and for what period as no details are given in the impugned letter. The law is well settled that no recovery ~~can~~ can be made from an individual without affording an

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opportunity to defend themselves. In the present case it is seen the respondents have not followed due process of law and demanded<sup>had</sup> the amount to be deposited by the applicants without giving any details whatsoever with regard to the amount claimed by them. Therefore, I am satisfied that<sup>By this kind of B</sup> letter is not sustainable in law and is liable to be quashed. Accordingly the action of respondents is held to be not valid in law and the letters issued to applicants demanding the amount from applicants is quashed and set aside, if the respondents have already deducted or withheld some amount from any of the applicants as I am told that in the mean time some of the applicants have already retired, they are directed to refund the same within a period of three months from the date of receipt of a copy of this order.

5. With the above direction the O.A is partly allowed. No order as to costs.

  
Member (J)

Madhu/