

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

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Original Application No. 913 of 1999
this the 2nd day of December 2002.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Om Prakash Tewari, aged about years, R/o 107/276,
Brahma Nagar, Kanpur City, Kanpur.

Applicant.

By Advocate : Sri U. Nath.

Versus.

1. Union of India through the Post Master General, Kanpur Region, Kanpur.
2. The Chief Postmaster, Head Post Office, Kanpur.
3. Executive Engineer (Distribution), Power Corporation Ltd., Phool Bagh, Kanpur.

Respondents.

By Advocate : Km. S. Srivastava.

ORDER (ORAL)

By this O.A., the applicant has challenged the recovery made from the applicant's pension/DR. He has further sought a direction to the respondents to refund the recovery of Rs. 8168 and also recoveries being made from the month of Jan '99 at the fixed rate of Rs. 218/- per month on account of some electricity bill.

2. It is submitted by the applicant that he retired as Sorting Postman of Kanpur Head Office on 31.3.1995 and since all his dues were clear, he had started getting his pension and other retiral benefits in accordance with the rules and instructions on the subject. It is further submitted by him that he vacated the quarter no. 2A/6, P&T Colony, Kanpur Cantt. on 31.3.1995 and paid the final amended bill amounting to Rs. 3288/- on 21.11.1998. In support of his claim, the applicant has

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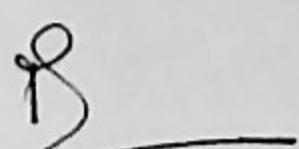
annexed a letter dated 25.4.1995 wherein there is a noting that fans and Taps were proper in condition and after putting the departmental lock, keys had been handed-over (page 11). He has also invited my attention to page 12-A, which was a bill mentioned as last amended bill upto 31.3.1995 wherein after deducting the amount of Rs.3288/-, it was written that the rest of the amount will be made by the present allottee and this fact was further substantiated by the letter written by the CPMG on 9.12.98 (page 12), wherein the CPMG had stated categorically that Sri O.P. Tewari has already given his bill with regard to house no. 2A/6 vide last amended bill dated 21.11.1995 and once again an amount of Rs.3288/- was deposited on 21.11.1998. Thereafter, the bill has been deposited by Sri Gauri Shanker Misra for the period from 15.8.95 to 15.2.97. On the basis of these documents, it is submitted by the applicant that there were no dues to be recovered from the applicant at the time when he was retired, but the respondents withheld ~~the~~ some amount of pension w.e.f. 1.4.1998 illegally and without informing him as to for which period, the amount is being deducted from his pension. The applicant has stated that he gave a representation to the PMG, Kanpur vide application dated 29.12.98 and after a great deal of harassment, the payment of pension from 1.4.98 to Jan' 99 was released withholding the amount of Rs. 8168 towards dues of electric charges. The grievance of the applicant is that since he had already made all the payments and nothing was due against him, no recovery could have been made from the pensionary benefits of the applicant that too without giving any opportunity or informing him as to for what period the alleged dues against the applicant and how the amount of Rs. 8168/- has been arrived at. The applicant's counsel has also relied on Government of India's decision mentioned under Rule 73 of CCS (pension) Rules, wherein it is clarified that the arrears of water

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and electricity are dues of the Municipal Committees etc. which are local bodies and are, therefore, not Government dues. Therefore, no recovery of such dues can be made from the DCRG of the applicant. The applicant has also relied on a judgment given by this Tribunal in O.A. No. 1107/97 given on 6.5.1999. He has, thus, prayed the relief(s) as mentioned above.

3. The respondents have opposed the O.A. and have stated that since Kanpur Electric Supply undertaking had raised a bill against the applicant for the meter connection, which was installed in the house occupied by the applicant. Therefore, they made the recovery from the applicant's pension/DR. It is not disputed that before making the recovery, no show-cause notice was given to the applicant or any details or break-up for the said amount was provided to the applicant.

4. At the outset, the applicant's counsel has invited my attention to the order passed by this Tribunal on 21.5.2001 whereby the respondents were directed to produce a copy of the demand letter dated 4.4.1998 referred to in para 14 of the Counter and also any rule or instructions to show that the arrears of electric bill could be recovered from the pensionary benefits of a retired person. Pursuant to the said order, the respondents have placed the demand notice dated 4.4.98 by filing M.A. No. 3487 of 2001. The said M.A. was allowed and demand notice was taken on record. ~~On~~ ^{was} perusal of the demand notice shows that the said demand notice issued under Rule 5 of Uttar Pradesh Government Electrical Undertakings (Dues Recovery) Act, 1958 (In short Act of 1958). I had called-for the above said rule and find that rule 5 of the said Rules, for ready reference reads as under :-



"Recovery of dues : If the dues for which notice of demand has been served are not deposited with the prescribed authority within thirty days from the date of service, or such extended period as the prescribed authority may allow, the same together with costs of recovery as may be prescribed shall be recoverable as arrears of land revenue, anything contained in any other law or instrument or agreement to the contrary notwithstanding."

5. A reading of this rule clearly shows that there is a separate recovery procedure prescribed under the said Rules and such recovery can be made only through following the process of law. The counsel for the respondents could not produce any rule, contrary to these rules, to show that the arrears of electric bill raised by the local body could be recovered from a retired person. Even otherwise, I find that it is not disputed by the respondents that before starting the recovery, the applicant was not given any show-cause notice, nor apprised of the break-up of the amount, which is alleged to have been due against the applicant. The law is well settled on the subject that no recovery can be made from any person without following the principles of natural justice. In the instant case, neither the principles of natural justice were followed inasmuch as no notice was given to the applicant before starting the recovery from his pensionary benefits, nor a proper procedure was followed as prescribed under Uttar Pradesh Government Electrical Undertakings (Dues Recovery) Act, 1958. Accordingly, the applicant is entitled to the relief(s) as claimed by him. The recovery already made from the pensionary benefits of the applicant to the tune of Rs. 8168/- and other recovery of Rs. 218/- made on monthly basis shall be refunded by the respondents immediately to the applicant and in any case not later than ~~within~~ two months from the date of communication of this order. They are directed not to make any further recovery from the pensionary benefits of the applicant without following the due procedure of law. The applicant's counsel insisted upon to grant the interest on the amount

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illegally recovered from his pensionary benefits. I find that there is some substance in the argument, because the amount was deducted from his pensionary benefits illegally and without following the due process of law. Therefore, I direct the respondents to pay interest on the said amount @ 9% per annum till the payment^{are} made to the applicant^{/actually}.

6. The O.A. is accordingly allowed in terms of the directions given above. No costs.

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MEMBER (J)

GIRISH/-