

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 123 of 2003

Allahabad this the 19th day of February, 2003

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Maj Gen K.K. Srivastava, Member(A)

Pramod Kumar Bhardwaj Son of Ram Autar, resident of House No.3, Mohalla Chhota Khudaganj, District Pilibhit.

Applicant

By Advocate Shri A.K. Sachan

Versus

1. The Union of India, through Secretary, Ministry of Communications, Department of Post, New Delhi.
2. Post Master General(P.M.G.) Bareilly Region, Bareilly.
3. Senior Superintendent of Post Offices, Bareilly, Postal Bareilly Division, Bareilly.
4. Head Post Master, Head Post Office, Pilibhit.
5. District Magistrate/Collector, Pilibhit(U.P.).

Respondents

By Advocates Shri R.C. Joshi,
Shri K.P. Singh

O_R_D_E_R (Oral)

By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

By this O.A. under Section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order dated 10.01.2003 passed under Section 12) sub section (4) of Public Accounts Default Act, 1850. By the aforesaid order, Collector Pilibhit has been requested to recover Rs.2,00,000/-

from applicant's moveable or immoveable property held by him individually or as a member of Joint Hindu family.

2. Learned counsel for the respondents has raised preliminary objection that this O.A. is legally not maintainable in this Tribunal as the impugned order has been passed under the P.A.D. Act, 1850, and the recovery of amount as arrears of land revenue through Collector, Pilibhit is not a dispute relating to service matter. Reliance has been placed on a Division Bench Judgment of this Tribunal in case of 'Madan Lal Misra Vs. Superintendent of Post Offices and Ors. 1998(2)A.I.S.L.J. page 302'

3. We have carefully considered the objection raised by the learned counsel for the respondents and also perused the Judgment of the Division Bench in Madan Lal Misra's case (supra). Division Bench discussed in detail as to whether this Tribunal has jurisdiction to hear the dispute regarding recovery of the amount as land revenue arrears and thereafter found that the Tribunal has no jurisdiction. Division Bench has relied on the Judgment of Hon'ble Supreme Court. The relevant paragraphs are being reproduced as under:

"11. In this connection it is relevant to note that this Bench in its order dated 24.9.1996 passed in O.A. No. 471/96 (RAJA RAM SAROJ VS UNION OF INDIA & OTHERS) held that the O.A. in respect of recovery under the provisions of the P.A.D. Act was not maintainable before this Tribunal. The relevant observations of the Bench are reproduced below:-



"Under the Revenue Recovery Act, the recovery is being made as arrears of land revenue. The learned counsel for the applicant submitted that recovery as arrears of land revenue can not be effected unless the departmental comes to a conclusive finding that loss has been caused to the government of the said amount. This submission is wholly untenable. The applicant does not dispute that he is a public accountant within the meaning of term as defined under Section 3 of the Public Accountant Default Act. He further in the O.A. does not deny entrustment of the amount to him in that capacity which are government account. In this O.A also he has not indicated anything to show how he accounts for the loss of the said amount which was entrusted to him. That being so, There was clear case of recovery as arrears of land revenue. Since the recovery is being effected under the provisions of P.A.D. Act and the Revenue Recovery Act, in ourconsidered opinion, it cannot be said to be a service matter cognizable before this Tribunal."

12. It is also note worthy that the view of this Bench has been upheld by the Hon'ble Supreme Court in their order of 8.9.1997 passed in the S.L.P No. 1505/97 filed by the applicant of the said O.A against the order of this Bench. For ready reference the order of the Apex Court is also reproduced Below:-

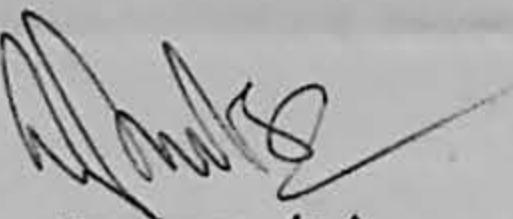
"In the impugned judgment the Central Administrative Tribunal has observed that the matter of recovery that is being effected against the petitioner under the provisions of the Public Accountant Default Act and the Revenue Recovery Act and it cannot be said to be a service matter cognizable before the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

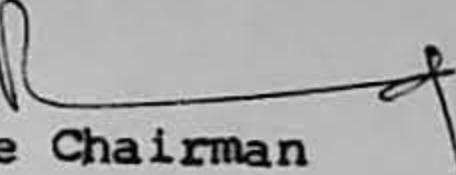
13. In view of the law laid down by The Lordships of the Supreme Court, as stated above, the prayer of the applicant for quashing of recovery proceedings against him is dismissed as not maintainable. Consequently the stay granted earlier in the matter stands vacated. It is ,however, open to the applicant to approach appropriate judicial forum in the matter as he may be advised."

4. In the present case, the impugned order dated 10.01.2003 proceeds ^{with observation} that applicant has been found guilty for causing loss to the Government to

:: 4 ::

the extent of Rs.2,00,000/- and the applicant has property in Mohalla Chhota Khudaganj, District Pilibhit thus, the order has been passed under the provisions of P.A.D. Act, 1850 and this Tribunal has no jurisdiction. The views expressed by the Hon'ble Supreme Court and followed by the Division Bench in the above case, is squarely applicable in the facts of present case. The O.A. is not legally maintainable, therefore, dismissed. The applicant may challenge the order before the appropriate forum. No order as to costs.


Member (A)


Vice Chairman

/M.M./