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RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

ORIGINAL APPLICATION NO.232 OF 2007

ALLAHABAD THIS 8th DAY OF June, 2007.

Hon'ble Mr. P.K. Chatterji, Member-A

Lal Chand, son of Shree Chand,
Resident of Village and Post Office: Rohana Khurd, Tehsil and
District Muzzaffarnagar.

.....Applicant

(By Advocate: Sri S. Husnain)

Versus.

1. The Union of India through Secretary Ministry of Communication/ Department of Post Dack Bhawan, Sansad Marg, New Delhi.
2. The Senior Superintendent of Post Office, Muzaffarnagar Region Muzaffarnagar.
3. Pravar ADhikshak, Post office, Muzaffarnagar, Region Muzaffarnagar.
4. Tehsildar, Tehsil SAdar, Muzaffarnagar.

.....Respondents

(By Advocates: Sri S. Singh/Shri S. Srivastava)

CONNECTED WITH

ORIGINAL APPLCIATION NO. 1385 of 2006.

Babu Lal Yadav son of Shri Baba Ram, Resident of Kamal Nagar, Police Station New Mundi, District Muzaffarnagar.

.....Applicant

(By Advocate: Sri S. Husnain)

Versus.

1. The Union of India through Secretary Ministry of Communication/ Department of Post Dack Bhawan, Sansad Marg, New Delhi.
2. The Senior Superintendent of Post Office, Muzaffarnagar Region Muzaffarnagar.
3. Pravar ADhikshak, Post office, Muzaffarnagar, Region Muzaffarnagar.

.....Respondents

(By Advocate: Sri S. Srivastava)

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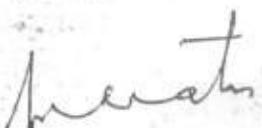
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O R D E R

The facts of both O.As 232/07 and 1385/06 are identical, the applicants are different but they are similarly circumstanced, their grievances are also identical and the decision challenged by the applicant in both the O.As are also the same and, therefore, I am disposing of this both O.As by this common order.

2. The applicants were working as Postal Assistant in Muzzafarnagar City Sub Post Office. In April 2005 a fraud involving R.D Accounts opened at the Sub Post Office was detected by the Senior Superintendent of Post offices who on suspecting the involving of the applicant, lodged an FIR NO.29905 under section 409 of IPC against the applicant at Police Station Naimandi, Muzzafarnagar on 26.4.05.

3. It is further stated by the applicant that the investigating officer at the Police Station after necessary investigation submitted the final report on 5.6.05 in which he stated that there was no evidence of the allegation made against the applicant in the FIR. However, department enquiry continued, the applicant is still under suspension on the basis of the applicant's suspected involvement in the fraud and on the allegation of embezzlement of Govt. fund. Senior Superintendent of Post office Muzzafarnagar reported the matter to the revenue authority to proceed against the applicant under section 4 of the P.A.D Act 1850 for recovery of the loss to the Govt. In pursuance of the same, recovery certificate dated 31.1.2007 has been issued by the Tehsildar Sadar District Muzzafarnagar under section 4 of P.A.D Act, 1850. It is this recovery certificate of the Tehsildar which is challenged/impugned by the applicant in O.A. 232/07. In O.A. No.1385/06, which is the direction of the Senior Superintendent Post office dated 18.8.2006 proposing recovery of the Govt. loss through Revenue Authority which is challenged.

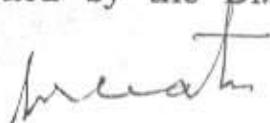


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4. The applicants in both the O.As are of the view that they have been wrongly implicated in this case. The final report submitted by the police clearly states that applicants were not involved. However, the respondents were not satisfied and still pursuing the matter. The learned counsel for the applicant asked the question as to how the respondents could recover the money without clearly establishing the lapses of the applicants. Disciplinary Proceedings have not been concluded. The truth of the matter will emerge only after the enquiry is concluded. It is therefore, too premature for the respondents to attempt to make any recovery.

5. The learned counsel for the respondents, however object to admitting the case for hearing saying that this Tribunal did not have any jurisdiction to decide matter pertaining to P.A.D Act. It was stated that the recovery certificate was issued under section 4 of the P.A.D Act by the Tehsildar. In O.A. 1385/06 also it is the proposal for recovery under section 4 of the P.A.D. Act. The Tribunal, therefore, did not have the powers to adjudicate dispute regarding application of sections under the P.A.D Act 1850. During the argument, the learned counsel for the respondents stated that this matter was already decided by the Bench of the Tribunal at Lucknow in O.A. No. 73/1993 Shyam S. Singh Vs. U.O.I. The relevant portions of the judgment is reproduced below:-

“3. The applicant who was working as Postal Assistant in the Sub Post Office at Pratapgarh during the period 7th December 1977 to 14th January, 1980 is stated to have committed fraud from various saving banks and time deposit schemes of patti sub Post Office, Pratapgarh aggregating to sum of Rs.4,21,562/- Since the aforesaid loss could not be recovered from the applicant, District Magistrate, Pratapgarh was requested to recover the amount from the landed property of the applicant under the provisions of section 3 and section 4 of the Public Accountant Defaulters Act, 1850 (In short PAD Act). The D.M, Pratapgarh accordingly issued a recovery certificate for recovery of said amount. Since the recovery certificate was issued by the DM for



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recovery of sum of Rs.4,21,562/- under section 3 and 4 of the PAD Act, 1850 which by itself is a complete enactment, this Tribunal has no jurisdiction in the matter. A similar view was taken in the case of Raja Ram SAroj Vs. Collector District Sultanpur in O.A. No.471/96 by this Bench of the Tribunal and it was decided that matters covered under the PAD Act would not be cognizable by this Tribunal as such matters cannot be said to fall within the scope of section 14 of the AT Act, 1985. The order of this Tribunal passed in O.A. No.471/96 in re Raja Ram SAroj was challenged before the Hon'ble Supreme Court by filing a SLP. The SLP filed before the Apex Court was dismissed and it was observed by the Hon'ble Supreme Court, that matters falling within the scope of PAD Act and Revenue Recovery Act cannot be said to be a service matters and cognizable before this Tribunal. The SLP was accordingly dismissed by the apex Court.

4. Following the view taken in the case of Raja Ram Saroj by the Hon'ble Supreme Court while dismissing the SLP we hold that the question involved in this O.A. cannot be adjudicated by this Tribunal and accordingly the O.A. deserves to be dismissed as not maintainable for want of jurisdiction. WE order accordingly. No costs".

6. After hearing the learned counsel for the both parties and on the basis of submissions under relevant citation I am of the view that this Tribunal is not empowered to adjudicate disputes involving application of P.A.D Act 1850. The O.As NO.232/07 and 1385/06 therefore are dismissed as non maintainable for lack of jurisdiction.

No costs.