

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHBAD BENCH : ALLAHABAD**

Original Application No. 666 of 2007

Allahabad, this the 8th day of May, 2009.

Hon'ble Mr. A.K. Gaur, Member-J

Vikas Kumar Goel a/a about 30 years S/o Sri Surendra Kumar Goel, Resident of 8/338 kamboh, Katehra, P.O. Head Post Office, City Saharanpur (U.P.), working as Postal Assistant, Post Office Deo Band, Saharanpur .

..Applicant.

By Advocate : Shri L.C.Shrivastava

Versus

1. Union of India, through its Secretary, Post & Telegraph Department, New Delhi.
2. Senior Superintendent of Post Office, Saharanpur. .
3. Tehsildar, Tehsil Sadar, Saharanpur.

...Respondents

By Advocate : Shri R.K.Srivastava.

ORDER

Hon'ble Mr. A.K. Gaur, Member-J :

I have heard Shri L.C. Srivastava learned counsel for the Applicant, Sri R.K. Srivastava for the respondents.

2. Learned Counsel for the applicant submitted that the applicant was selected on the post of Postal Assistant and after completion of successful training; he was posted in the Regional Post Office, Saharanpur.

3. The respondent no.2 issued recovery certificate dated 05.06.2007 and citation dated 26.04.2007 for Rs.1,38,334/- against the applicant. The representation of the applicant has been rejected without assigning any reason. Against the aforesaid order the applicant preferred Writ Petition No. 22137 of 2007 (Vikas Kumar Goel Vs. Union of India & others) before Hon'ble High Court. Vide judgment and order dated 08.05.2004 the Hon'ble High Court directed the respondent to decide the

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representation of the applicant dated 29.04.2006 within a period of Six weeks by passing reasoned and speaking order and till the disposal of the representation the recovery was stayed against the applicant. In strict compliance of the order of the Hon'ble Court, representation so preferred along with certified copy of the judgment of the Hon'ble High Court, the Respondent no.2/Senior Superintendent of Post & Telegraph Department, New Delhi, rejected the representation of the applicant by a cryptic order non speaking order dated 05.06.2007. Mr. L.C. Srivastava learned counsel for the applicant stated that the competent authority without ensuring compliance of the order of the Hon'ble High Court and without going through the representation of the applicant once again passed a cryptic and unreasoned order without application of mind. It is also contended on behalf of the applicant the order is violative of Principle of Natural Justice and fair play. Learned counsel for the applicant has placed reliance on the judgment rendered by **Hon'ble Supreme Court in 2005(1) Supreme 21 (MMRDA Officers Association Kedarnath Rao Ghopade Vs. Mumbai Metropolitan Regional Development and another)**. Learned Counsel for the applicant also contended that "Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at".

4. Shri R.K. Srivastava learned counsel for the respondents submitted that the representation of the applicant dated 29.04.2007 was duly considered by respondent no.2 after taking into consideration and circumstances of the matter and also the points raised by the applicant in his representation. Against this order, the applicant again filed writ petition No. 22137/2007 before Hon'ble High Court. The said writ petition was dismissed on the ground of jurisdiction that the High Court has no jurisdiction in the matter and the applicant was directed to approach the Tribunal for redressal of his grievances.

5. I have carefully seen the record. Having heard parties counsel at length and giving my thoughtful consideration to the

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arguments advanced by the parties counsel, I am satisfied that the order passed by the Competent authority is cryptic unreasoned and without application of mind. In view of the following cases of Hon'ble Supreme Court the order dated 05.06.2007(Annexure No.I to the compilation No.1) is not sustainable. The list of cases are as follows:-

- (i) 2008 Vol. I Supreme today-617 (DFO Vs. Madhusudan Das
- (ii) 2006 SCC (L&S) -840 (Narendra Mohan Arya Vs. United India Insurance Company)
- (iii) 2005 (7)SCC-597 (National Fertilizers Vs. P.K. Khanna)
- (iv) 2008 (8) SCC-236 (State of Uttranchal Vs. Khadak Singh)
AIR-1986 SCC (LGS) 383 (Ram Chandra Vs. Union of India)

6. On a careful analysis of the aforesaid decision, I am firmly of the view that the order passed by the Competent Authority (Annexure-I dated 05.06.2007) deserves to be quashed and set aside. Accordingly, I hereby set aside the order dated 05.06.2007 Annexure/I and earlier order passed by the competent authority. The competent authority directed to reconsider the matter taking into account, the decision rendered by Hon'ble Supreme Court and pass appropriate reasoned and speaking order within a period of three months from the date of receipt of the copy of the aforesaid order.

7. With the aforesaid observation, the O.A. is disposed of.

8. Till the disposal of the representation no coercive action shall be taken against the applicant.

Anil Kumar
Member (J)

/Sushil/