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Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD**

**Original Application No. 852 of 2007**

**Friday this the 16<sup>th</sup> day of November, 2007**

**Hon'ble Mr. K.S. Menon, Member (A)**

Mohd. Irfan Khan Son of Mohd. Miyan Khan, Resident of Mohalla Shore  
Miyan House, No. 10/37/1 Chhata Jambu Das District Saharanpur.

**Applicant**

**By Advocate Sri S. Tyagi**

**Versus**

1. State of U.P. through Collector, Muzaffar Nagar.
2. Tehsildar, Tehsil Sadar, District Saharanpur.
3. Union of India through Secretary, Ministry of Communication its  
Post and Telegraph, New Delhi.
4. Parwar Adhikshak Post Office Department, Saharanpur.

**Respondents**

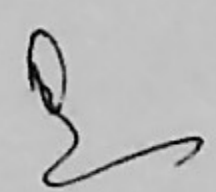
**By Advocate Sri Saumitra Singh**

**ORDER**

**By K.S. Menon, Member (A)**

This O.A. has been filed seeking direction of this Tribunal for quashing the Order passed by respondent No.4 dated 22.03.2007 and the order dated 26.04.2007 passed by respondent No. 2 against the applicant for recovery of a sum of Rs.2,00,000/-. The matter pertains to recovery certificate, which has been issued by respondent No.2- Tehsildar, Tehsil Saharanpur. It appears that the applicant had misappropriated this amount of money and hence this recovery certificate was issued on 22.03.2007 under the Public Accountants' Default Act of 1850. As per order sheet dated 04.10.2007, issue of maintainability of this O.A. was discussed and the respondents were asked to file a short counter affidavit on the maintainability of the O.A. Short C.A. has since been filed.

2. Learned counsel for the applicant states that this is a service matter and has to be adjudicated by this Tribunal. In support of his

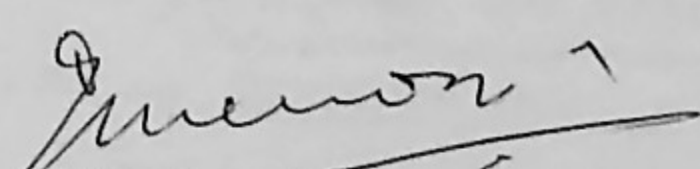


arguments, he has furnished a copy of Judgment of Allahabad High Court dated 16.07.2007 passed in Writ Petition No. 29237 of 2007 in which the High Court has stated that since this is a service matter, Writ Petition is not maintainable before the High Court. They have also mentioned that the Order would not affect the petitioner's right to invoke the jurisdiction of the Central Administrative Tribunal, if so advised. Learned counsel for the applicant has also drawn my reference to the Order passed by this Tribunal (Single Bench) dated 06.07.2007 in which it was mentioned that keeping in view the certain High Court's Judgments, the applicant had made out a prima facie case for consideration by this Tribunal and by that order the impugned orders were stayed. He has also drawn reference to sub rule 22 and 23 of Rule 11 of CCS (CCA) Rules, 1965.

3. Learned counsel for the respondents in the short counter affidavit has mentioned that identical matter had been resolved by the Lucknow Bench of the High Court in Writ Petition No. 3036 of 2003, in which it was held that issue of this nature cannot be adjudicated by the Tribunal since it pertains to matter covered under the Public Accountant' Defaults Act. This Judgment has also been cited in the Order dated 08.06.2007 passed by this Tribunal in O.A. No. 232 of 2007. The respondents' counsel has also cited the Judgment dated 18.11.2005 passed by the Division Bench of this Tribunal in O.A.No. 436 of 1998, in which it has been held that the subject matter falls outside the ambit of the Administrative Tribunal.

4. There are also similar Judgments which clearly go to show that this Tribunal has no jurisdiction over the matter pertains to Public Accountant' Defaults Act.

5. In view of the above, I am of the view that the issue raised in this O.A. has been sufficiently adjudicated in different Courts and it is clear that this O.A. is not maintainable before this Tribunal and accordingly the O.A. is dismissed as not maintainable. It is however open to the applicant to approach the appropriate forum for redressal of his grievances.

  
**Member (A)**

/M.M./