

NO
Recoveries

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CAT/3/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~NEW DELHI~~

O.A. No.

641

1988

F.A.-No.

DATE OF DECISION 10-10-1991

K.V. PATEL AND OTHERS

Petitioner

Mr. P.H. Pathak

Advocate for the Petitioner(s)

Versus

UNION OF INDIA

Respondent

Mr. P.M. Raval

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. K.J. RAMAN, ... Member (A)

The Hon'ble Mr. R.C. Bhatt, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

Y
Y
Y
Y
Y
Y
Y

No

1. Shri K.V. Patel

2. Bhartiya Telephone Employees
Union Class-III through its
Circle Secretary, Shri P.D. Raol,
(having his office at)
21, P. & T. Cooperative Housing
Society,
Opp. Vastrapur Rly. Stn.,
Vejalpur,
Ahmedabad.

... Applicants

(Shri P.H. Pathak, Advocate for the
applicants)

Versus

Union of India through
The General Manager,
Ahmedabad Telephones Dist.,
Ramniwas Building,
Ahmedabad.

.... Respondents

(Shri P.M. Raval)
Advocate for the Respondents)

JUDGEMENT

Dated the 10th October, 1991

Per: Shri K.J. Raman, Member (A)

The controversy in this case is regarding collection of subscription of Re.1/- per month for the Recreation Club of the Ahmedabad Telephones Department, from the monthly salaries of Members of the staff of the Department. The first applicant ^{is} ~~was~~ one Shri Patel, an employee of the Telephones Department. The second applicant is ~~a Member of~~ the Bhartiya Telephone Employees' Union, Class-III.

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2. It is stated in the application that the said subscription is being collected as aforesaid since a number of years from the salaries of the employees. It is contended that according to the constitution of the Recreation Club, membership therein is only voluntary, and the said subscription cannot be collected from any member of the staff, who does not wish to be a Member of the Club. This is the main point urged repetitively in the application. It is stated that a number of employees had made representations to the departmental authorities for stopping such recovery and for refund of the amount already collected and that the said authorities had not given any reply. It is alleged that the said deduction is against the provisions of the Payment of Wages Act. Accordingly, the applicants have sought the following reliefs:-

- "(a) that the Hon'ble Tribunal be pleased to declare the action of the respondent department deducting wages of the employees concerned without their written consent for the contribution of the so-called Club, as arbitrary, illegal, invalid and inoperative in law and quash and set it aside;
- (b) be pleased to direct the respondents department to pay the amount which is ~~a~~ deducted from the wages of the members of the applicant No.2 Union from the initial engagement in employment with ten times penalty;
- (c) be pleased to hold the deductions from the wages of the employees as illegal and punish the respondents for the same under Section 20 of the Act.

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- (d) Any other relief to which this Hon'ble Tribunal deems fit and proper in the interest of justice together with costs."

An Interim Order was issued earlier to the effect that no further deduction should be made from the date of the said order (5-12-1988).

3. The respondents have filed a reply resisting the claim of the applicants. It is stated that the need for such a Recreation Club had been in existence for a long time in the interest of the welfare and entertainment of the departmental staff numbering more than 5,000. Accordingly, the Club was set up and it renders multifarious services to the vast majority of the staff of the Department. It is stated that several facilities like providing of magazines, carrom boards, chess, etc. ^{are provided by the Club.} The Department is also contributing to the expenditure of the Club. A fee of Re.1/- per month is deducted from the salaries of the employees along with other deductions, in favour of the Recreation Club. It is averred that of the 5,000 employees of the Department, only a few including the applicants have raised any dispute over the issue and the overwhelming majority of the staff have been subscribing to the Club willingly and without any demur. It is only a handful of employees like the applicants who had started the problem recently and made representations against the deduction of the subscription. It has been contended that applicant No.2 is not a registered Union and it cannot have any grievance in this case since nothing is deducted from its funds. It is, however, clearly averred in the reply that membership

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of the Club is voluntary. It has been reiterated that whenever any member of the staff wishes not to contribute to the Club, he can represent to the Club and the fee recovered from his salary had always been refunded in such cases. It is, therefore, stated that unwilling members of the staff were free to write to the Club for stopping further recovery from their salaries.

4. The reply then contains the following averments:-

"It is further submitted that looking to the grievance of some employees, it has been decided that all recoveries for Recreation Club are to be stopped from July, 1988 onwards and in future, recoveries be made only on the list to be supplied by the Recreation Club. It is also decided that if any official/staff member gives an application through Recreation Club that he does not want to continue a member, then the deductions are not to be made. Necessary instructions have already been issued on 3-8-1988 in this regard, i.e. prior to filing of this present application before the Hon'ble Tribunal. The other averments made in this application are hereby denied and not accepted."

5. The case was heard on 8-10-1991 when the learned counsel for both the sides submitted their contentions as briefly indicated above.

6. In principle there does not seem to be any controversy between the parties in this case. Both of them agree that Membership of the Recreation Club is purely voluntary. No one can be compelled to be a Member of the Club and subscription recovered from his salary against his wishes.

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7. According to the applicants themselves, the subscription has been recovered from the salaries of the employees over a number of years. The respondents have rightly pointed out that the concerned members of the staff including the applicants have certainly acquiesced in the membership of the Club and in the deduction so made, till the applicants thought it fit to protest against further recovery. When the vast majority of the employees agree to the deduction and membership in the Club, and a procedure is devised for effecting the payment of the subscription from the salary to the Club, there does not seem to be anything wrong or illegal in adopting the procedure as a general rule. This is, however, subject to the provision that any unwilling member can always write to the Club expressing his unwillingness to continue as a Member of the Club, and if he does so, no further recoveries can be made, and any recoveries made against his wishes have to be refunded to him. This position has been clearly conceded by the respondents in this case. It has been clearly stated that this has always been the position and refunds have indeed been granted to the individuals accordingly.

8. This application has been filed late in 1988. It is, however, seen from the reply of the respondents, vide extract reproduced above that the respondents have already stopped ^{general} recoveries for the Recreation Club from the salaries of the employees from July, 1988 onwards. It is clearly stated that

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necessary instructions accordingly have already been issued on 3-8-1988, prior to the filling of this application. It is thus clear that even before the present application was filed, the respondents have stopped the impugned periodical ^{general} recovery. To this ^{plan} extent, the present application has become infructuous.

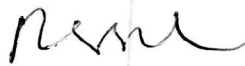
9. It is observed that the applicants have submitted their representations sometime in 1987 and 1988 (pages 21 to ³⁴~~25~~), seeking stoppage of further recovery of the fee and for refund also. We feel that the applicants are entitled for refund ^{of} only the sums deducted from their salaries after their written requests for stoppage of such deductions. In view of the acquiescence, they would not be entitled for any refund of the fee ^{collected} earlier to their letters of protest.


10. In the circumstances, the present application is disposed of with the following directions:-

- i) Individual members of the applicants' Union who have already written to the authorities for stoppage of the recovery, may apply to the authorities for refund of the fee deducted from the salary after the submissions of their original representations against such recovery in 1987 or 1988 as the case may be, and if the amount had not already been refunded.

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- ii) The Departmental authorities shall direct the concerned office bearers of the Recreation Club to make the refund as aforesaid, since it is the Departmental authorities who have allowed the deduction of the amount from the salary in favour of the Club.
- iii) In case the Recreation Club does not refund the amount due, the departmental authorities shall refund the sum to the members of the staff as aforesaid.
- iv) Refund of the past deductions to the applicants shall be only to the extent indicated above and not for the earlier period.
- v) There will be no order as to costs.


(R.C. BHATT)
Member (J)


(K.J. RAMAN)
Member (A)

10-10-1991