

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. 620/93

DATE OF DECISION: 19th November 1999

Mr. C.C.Patel : Petitioner [s]

Mr.P.K.Handa : Advocate for the petitioner [s]

Versus

Union of India & ors : Respondent [s]

Ms.P.B.Sheth Advocate for the Respondent [s]

CORAM

THE HON'BLE MR. V.RAMAKRISHNAN : VICE CHAIRMAN

THE HON'BLE MR A.S.SANGHAVI : MEMBER [J]

JUDGMENT

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

Chimanbhai C Patel,
53, Vishvakunj Society,
Karelibaug,
Vadodara.

Applicant

Advocate Mr.P.K.Handa

Versus

1. Union of India,
Ministry of Communications,
Through Director General, Dak Bhavan,
New Delhi.
2. Post Master General,
Regional office, Pratapgunj,
Baroda.
3. Accounts Officer, office of the PMG,
Regional office, Pratapgunj,
Baroda.
4. Sr. Supdt. of Post office,
West Division, Raopura,
Baroda.

Respondents

Advocate Mrs.P.B.Sheth

J U D G M E N T
IN
O.A.NO.620/93

Dt. 19/11/99

Per Hon'ble Mr.A.S.Sanghavi Member [J]

In this application under section 19 of the Administrative Tribunal Act, 1985, the applicant Mr.C.C.Patel, who is serving as a Dy. Supdt. of post office , West division, Vadodara has prayed for the following relief:-

"The applicant prays to the Hon'ble Bench to quash and set aside Annexure A, A/1 and A/2 and direct the respondent to re-pay the amount of Rs.16,000/- which has been deposited by the applicant against the maintenance and repairs of building which was disallowed by the competent authority."

2. The Annexure A is a letter from the Accounts Officer, Vadodara dated 23.7.93 informing the applicant, Mr.C.C.Patel that the NPC Bill of Navsari Head Office for the month of July 1992 was disallowed as the expenses were irregularly incurred. It also asks the applicant to credit the amount to Government accounts immediately under intimation to that office. The Annexure A/1 is also a letter from the Accounts Officer, Vadodara region dated 29.7.93 and states that it was directed by the Post Master General, Vadodara, to intimate him that the amount of expenditure incurred on engagement of outsiders

is disallowed and asks the applicant to credit the amount and intimate the credit particulars immediately. The amounts mentioned in this letter pertains to the period from January 1991 to October 1991 and the total comes to Rs.36,723/- The third and the last Annexure A/2 is an order of the Post Master General, Vadodara Region referring to the NPC bill to Navsari Head Office for the month of January 1993 stating that, C.C.Patel, Dy. Sr.Post Master, Vadodara, had made application addressed to the Director Postal Services, Vadodara on dated 28.6.93 and in this connection, he was directed by Dy. Director Postal Services to inform Mr.C.C.Patel that the disallowed amounts may be credited in the first instance.

3. The applicant who was working as a Dy. Supdt. of Post Offices in Navasari had incurred certain expenses in his capacity as a Sr.Post Master for the maintenance of the rented building of the post office and after incurring the expenses, he had sought the ex post facto sanction for the amount spent. According to the applicant, the budget for the same was already available and in anticipation of the sanction from the competent authority, the

applicant had given the contract for white washing and other maintenance of the building costing Rs.16,000/-. He had also engaged office staff as there was a large number of vacancies in Group "D" and lot of complainants were received regarding the working of the post office. He had engaged casual workers for the month of January 1991 to October 1991 and May 1992 and July 1992. The monthly salary bills of such casual workers were duly passed by the Accounts office and no objection was taken at any time. However, at a later date, these expanses were disallowed by the competent authority. The applicant has asserted that he was empowered to engage such staff and whatever staff was engaged by him, was done under the rule 335 and therefore such engagement of casual workers was within the provision of rules. After his transfer from Navsari to Baroda, objections were raised regarding his engaging casual workers and also incurring expenditure for the maintenance of the building etc. According to the applicant, none of these objections were raised when he was at Navsari and whatever expenditure he had incurred, were incurred for the better and smooth working of the post office. He

has also contended that the budget for the same was also available and he was empowered under the rules to incur such expenses. He has also contended that the Accounts officer has no power to direct recovery of these amounts from him and therefore, the orders passed for the recovery of these amounts require to be quashed.

4. The respondent No.3. in his written reply, has contended that the applicant as Sr.Post Master, Navsari had no powers to incur expenditure beyond Rs.2500/- for a rented building had crossed the limit of his power and committed the error in incurring all these expenditures. Therefore, he was directed to credit Rs.16,000/- by the office of the Post Master and he had credited all these amounts on dated 19.7.93. He had also engaged outsiders/ pensioners/ EDAs though there was a ban on engagement of such persons and had incurred expenditures of Rs.36,723/- towards their salaries. These expenditures were in contravention of the departmental instructions and therefore, the amount is disallowed from the NPC bill and he was asked to credit the same. He has however failed to credit this amount. The white washing of the rented building

was also carried out without any sanction and the expenditure of Rs.16,000/- was incurred by the applicant which he was directed to credit and subsequently he has deposited this amount in the post office. It is asserted by the respondent No.3. that after due correspondence with the applicant, the unauthorized amount incurred by the applicant was disallowed and he was asked to credit the amount spent by him.

5. In the reply, the respondent no.3. has stated that the applicant was directed to credit the amount of Rs.16,000/- and that the applicant had complied with the directions. However, in the rejoinder, the applicant states that the dispute, regarding 16,000/- as an expenditure for white washing of the ground floor of Navsari Head Office rented building, has already been settled and the amount of Rs.16,000/- deposited by him has been refunded back to him. This statement of the applicant has not been denied by the respondents by filing sur-rejoinder and therefore, one of the main prayers of the applicant for the refund of the amount of Rs.16,000/- does not survive now. So far as the other allegations of the applicant are concerned, they

are mainly about his engaging outsiders for postal duties. The respondents do not deny that the Navsari post office did not have sufficient staff and that there was necessity to engage casual labourers in group "D" to carry out the work of the post office. It cannot be denied that the work of the post office is for public utility and if there is no sufficient staff in the post office, the work would be hampered for which even the Post Master can be held responsible. Though it is contended by the respondents that there was a ban on the recruitment of the outsiders or casual labourers, it is not denied by the respondents that the applicant had sought approval from the competent authority to engage these persons for the smooth running of the post office and that his demand was neither approved nor rejected. It is pertinent to note that the respondents do not deny that it was inevitable to engage outsiders staff and that there were several vacancies and absentees in the post office at Navsari during the relevant period. If it was so, then to raise the objection regarding the expenditure incurred by the applicant in the interest of the smooth running of the administration of the post office under his charge would amount to only raising

technical objections under mining the authority of the officer concerned. The reliance was placed by the respondents on the Directorate's letter dated 9.8.91 to support the contention that there was a ban on the engagement of the casual workers but when this letter is considered in its proper perspective, it becomes obvious that the objections are raised only with a view to harass the applicant. This letter is dated 13.8.91 and must have been received by the Nawsari post office in October or November 1991, while the period for which the casual workers were engaged by the applicant runs from January 1991 to October 1991. It therefore, becomes quite obvious that the contentions about there being a complete ban on the engagement of casual workers and the applicant flouting that ban is a got up contention on after thought to discredit the applicant. In fact when the applicant engaged casual labourers in January 1991 to October 1991, there was no ban for the engagement of the casual labourers. The applicant therefore could not have been asked to credit the amount of expenditure spent towards the payment of the salary to the casual labourers for this period. The Accounts officers who has raised this objection does not appear to

have given any attention to this aspect of the matter. Unfortunately, the Post Master General also does not appear to have guts to point out to the Accounts Officer that his objection was erroneous. In fact the Accounts officer is not a recovery officer and cannot direct the staff or the Post Master General or the employee concerned to credit the amount disallowed. He can only raise the objection regarding the expenditure incurred against the rules to take necessary action in effecting the recovery. Hence, the Annexure A and A/1 written by the Accounts officer deserves to be quashed. As regards the Annexure A/2, it is written by the Post Master General, Vadodara on dated 21.9.93 and refers to the subject of the NPC bill of Navsari Head Officer for the month of January 1993. This letter asks the applicant that the disallowed amount be credited in the first instance. It appears that in the subject of the letter January 1993 is wrongly printed and the same ought to be 1991 as there was no question of any objection to the NPC bill of January 1993. Further this letter of the Post Master General, Vadodara region also requires to be quashed on the basis that in January 1991 there was no ban on the engagement of the casual labourers and the applicant was within his

own rights to engage the casual labourers for smooth running of the post office at Navsari. Under the circumstances, the O.A. deserves to be allowed and Annexure A, A/1 and A/2 are required to be quashed as prayed. The question of refund of Rs.16,000/- does not survive as the applicant has already been refunded this amount.

6. In the conclusion, therefore, we allow this O.A. and quash the letters dated 23/7/93 of Accounts officer, dated 27.9.93 of Accounts officer, as well as the order of the Post Master General, Vadodara region dated 21.9.93 produced at Annexure A, A/1 and A/2 and direct the respondents not to effect any recoveries as per these Annexures. No order is passed as to costs.

A.S.SANGHAVI
[A.S.SANGHAVI]
MEMBER [J]

V.Ramakrishnan
[V.RAMAKRISHNAN]
VICE CHAIRMAN

S.Solanki