

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

**ORIGINAL APPLICATION NO. 81/2009
WITH
MISC. APPLICATION NO. 41/2009**

Date of order: 01.12.2010

CORAM:

**HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER**

Bheru Lal Samar S/o Shri Dalchand Ji, aged about 61 years, R/o Village & Post Fateh Nagar, District Udaipur, Ex-Sub-Postmaster, Post Office Salumbar, District Udaipur.

...Applicant.
Mr. S.K. Malik, counsel for applicant.

VERSUS

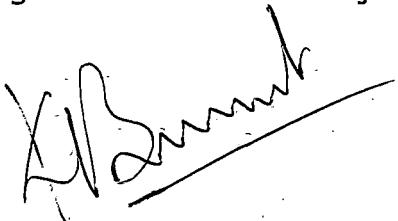
1. The Union of India through the Secretary, Ministry of Communication Dak Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur.
3. The Director of Post Offices, Southern Region, Ajmer (Raj.).
4. The Senior Superintendent of Post Offices, Udaipur Division, Udaipur.

... Respondents.
Mr. M. Godara, proxy counsel for
Mr. Vinit Mathur, counsel for respondents.

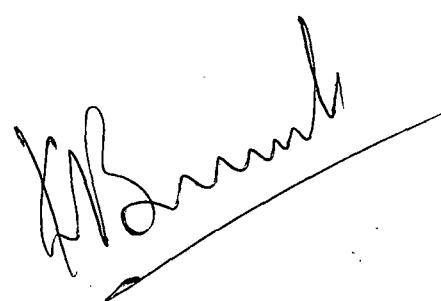
**ORDER
(Per Hon'ble Dr. K.B. Suresh, Judicial Member)**

After having heard and perusing the record, we are convinced that sufficient reasons have been given for condoning the delay in filing the O.A.; therefore, the delay is condoned. Accordingly, M.A. is allowed.

2. The applicant is an Ex-Sub-Postmaster, Post Office Salumbar, District Udaipur, who has accepted a deposit from a farmers' organization and also joined alongwith them and had

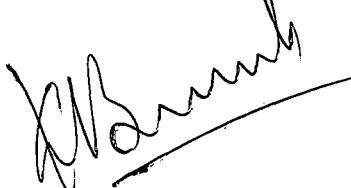


clubbed together the concerned official/s of that period. He took the amount of money and issued thereafter Kisan Vikas Patras after accepting the deposit. The Rule 6 of Chapter 16 of Kisan Vikas Patra Rules, 1988, under which types of certificates and issue thereof are stipulated mentions that there are three types of certificates i.e. (a) Single Holder Type Certificates; (b) Joint 'A' Type Certificates; and (c) Joint 'B' Type Certificates. It is also stipulates that a Single Holder Type Certificate can be issued to: (i) An adult for himself or on behalf of a minor or to a minor; (ii) a trust. A joint 'A' Type Certificate may be issued jointly to two adults payable to both holders jointly or to the survivor; and a Joint 'B' Type Certificate may be issued jointly to two adults payable either of the holders or to the survivor. Therefore, the normal meaning of the words indicate that the Kisan Vikas Patras can be issued jointly to two adults payable to both holders jointly or to the survivor. On this brief, the controversy is taken up to the Bench that the applicant ought not to have accepted a deposit from the Samiti of Farmers even though the Samiti's Secretary in his personal name was also a party. The controversy is that the applicant would not have to issue a joint 'A' type certificates to the Samiti although he would have issued a joint 'A' type certificates to the Samiti in the name of Secretary. Nothing more requires from him that the certificates could have been issued either to Samiti or to the Secretary but fact remains that the Government had accepted the money and kept it for their use for a period of 5½ years and thereby became responsible to pay the deposit doubled amount as provided under the rules.

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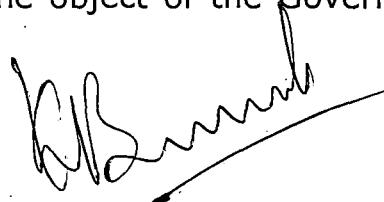
3. Apparently, the certificates were presented for payments by the concerned, on that time; the same were objected to by the department on the ground that it is neither issued as a joint 'A' type certificates or joint 'B' type certificates and it was sent to the senior officers for regularization as a doubt had occurred, as to whether it can fall in joint 'A' type certificates or in joint 'B' type certificates. The learned counsel for the applicant had produced a document which was obtained through R.T.I. annexure A/14 letter dated 11.05.1996, which indicates that vide letter dated 08.04.1988 as sent to all the Post Offices, as per Rule 6 as amended from time to time, Krishi Upaj Mandi, Fateh Nagar is authorized to purchase Kisan Vikas Patra and such Kisan Vikas Patras might have been purchased by another Krishi Upaj Mandis from the Post Office in joint 'A' type certificates. It is also mentioned in this letter that the objection of Dakpal Mavali Junction is not as per rule and when Secretary, Krishi Upaj Mandi, Fateh Nagar & Officials can purchase the Kisan Vikas Certificate in individual capacity then why such Kisan Vikas Patra can not be purchased under joint 'A' type certificate. Thus, it is clear that this practice was prevalent in all Post Offices. So one wonder as to why the applicant was singled out for differential treatment.

4. The organization of farmers and the Secretary himself made the payments for purchase of Kisan Vikas Patras which is a specific scheme of the Government for welfare of the farmers, therefore, the Post & Telegraph Department ought not to have and should not have refused payment. It is said that aggrieved from the refusal of the return of invested value, the investor had approached the Consumer Protection Forum for claiming the

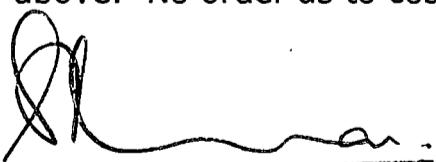


invested value with interest and compensation. The Department has been compelled to pay Rs. 188644/- to investor in compliance of Consumer Protection Forum order in the shape of the interest on regular investment of Rs. 90000/-. Vide annexure A/1 dated 22.03.2006, it is said that the applicant has failed to scrutinize the eligibility and the entries in the application of KVPs with the entries in the certificates and issue journal which resulted in the KVPs which were issued irregularly and the department had to pay interest on irregularly issued KVPs due lack of supervision by the applicant and resulted in loss to Government worth Rs. 188644/- and taking apparent lenient view it was ordered to recover of amount of Rs. 94322/- from the pay of the applicant in evenly four installments from his pay. How the department can delay the payment of principal of Rs. 90,000/- and interest of Rs. 90,000/- is difficult to understand.

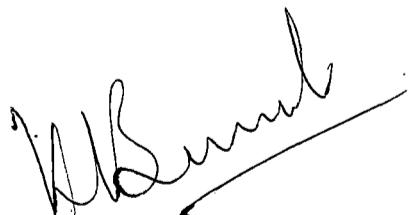
5. The action of the respondent-department is arbitrary in the extreme, illogical and illegal. Admittedly, they do not have a scheme whereby the issuance of such certificates can be verified. The said Rule 6 of Rules 1988 is vague in the extreme and illogical, which does not say whether it can be issued to a Samiti but at the same time it stipulates that it can be issued to a Trust. Under the Indian Trust Act, a Trust becomes a legal person but intent of issuance of Kisan Vikas Patras is to benefit of the farmers and it is a natural assumption that organization of farmers also may call in to take benefit under the welfare scheme provided by the Government of India. Therefore, the Samiti has to be understood in the context of a Trust because if a Samiti precludes out then the object of the Government of India would



frustrate, because it is made for the benefit of the farmers. It is also understood that the Kisan Vikas Patras are meant for the farmers for their benefit which will include collective benefit as well. Therefore, the respondent-department has failed to appreciate the intent of the Government of India in issuance of the Kisan Vikas Patras and after having collected the deposits, they could not have taken shelter under pretext of rules nor they can prevent the return of invested value with interest. The burden of issuance of Kisan Vikas Patras cannot be thrown on the shoulder of the applicant, and issuance of such certificates under joint 'A' type certificates to Secretary, Krishi Upaj Mandi Samiti Fateh Nagar is rightly done, otherwise, the very object of the Government of India will frustrate. The refusal to repay by the department after using the money of the Samiti for 5½ years is shocking. More shocking is the attempt to realise the same from the applicant. Therefore, the impugned orders Annexure A/1 dated 22.03.2006 and Annexure A/2 dated 15.09.2006 are declared to be illegal, and all the impugned orders are hereby quashed and set aside. However, if any amount had already been recovered from the applicant, the same shall be returned to him along with interest @ 9% per annum within a period of three months from the date of receipt of a copy of this order. Accordingly, the Original Application is allowed to the extent stated above. No order as to costs.



(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER



(DR. K.B. SURESH)
JUDICIAL MEMBER

51116
PHANT

दिल्ली के अस्पताल
में दूसरी बार मिला 11/11/16
को एक-एक तीव्र रुक्ष गद।

अनुभाव अधिकारी
केन्द्रीय अस्पताल के अधिकारण
जोधपुर जवाहर नगर, राजस्थान