

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO. 445 OF 2006

Monday, this the 28th day of July, 2008.

CORAM:

**HON'BLE Mr. GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Dr. K.S.SUGATHAN, ADMINISTRATIVE MEMBER**

Babu
Residing at Pandaraparambil House
Kumbalangi, Ernakulam District
Work Charge Driver
Civil Sub Division
Lakshadweep PWD
Wellingdon Island, Cochin - 3 : **Applicant**

(By Advocate Mr. Saji Varghese

v.

1. Union of India represented by
the Administrator
Union Territory of Lakshadweep
Kavarathi
2. The Executive Engineer
Lakshadweep P.W.D
Wellingdon Island, Kochi - 3 : **Respondents**

(By Advocate Mr.S.Radhakrishnan)

The application having been heard on 28.07.2008, the Tribunal
on the same day delivered the following:

O R D E R

HON'BLE Mr. GEORGE PARACKEN, JUDICIAL MEMBER

The applicant is working as a Driver in the Lakshadweep Public
Works Department. He has availed himself of a loan from the Central
Services Co-operative Society and on the basis of the undertaking given,
the 2nd respondent, viz., the Executive Engineer, Lakshadweep PWD,
Wellingdon Island, Kochi has been deducting the instalments from his
salary regularly and crediting to the account of the Society. However,
according to the applicant, due to some severe financial stringency, he



defaulted payment of some instalments and the 2nd respondent has recovered the arrears by withholding the entire pay. The applicant has filed the present OA stating that as per Clause (i) of proviso to Section 60 of Civil Procedure Code, salary to the extent of the first one thousand rupees and two third of the remaining cannot be attached. According to him, the maximum amount that could have been deducted from his monthly salary is only Rs.1434/- and therefore the action of the 2nd respondent to deduct the entire salary is highly unjust and illegal.

2. Counsel for the applicant has not been present even during the second call. We have therefore perused the documents available on record and heard Mr.S.Radhakrishnan, learned counsel for the respondents. Shri S.Radhakrishnan, invited our attention to Section 60 of Civil Procedure Code and submitted that the said section deals with attachment and sale in execution of decree and not applicable for repayment of loan in instalments as agreed to by the applicant himself. He has also brought to our notice that the applicant himself has been paying the additional amount of Rs.6,985/- in January, 2006, Rs.904/- in February, 2006 and Rs.1,235/- in March, 2006 from his monthly pay over and above his regular monthly instalments. He has therefore, submitted that there is no merit in the contention of the applicant that he is facing financial stringency and the agreed amount cannot be recovered from his pay.

3. We have considered the issue and it is seen that the applicant has taken a loan of Rs.1,10,000/- in the month of September, 2005 and it has to be paid in 60 instalments. The applicant has already authorised the Assistant Engineer, Lakshadweep Public Works Department to recover the

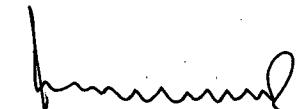
2

said amount from his monthly salary and credit it to the account of the Society. In such a situation, there is no merit in his contention that the 2nd respondent has been recovering the amount from his salary as against the provisions contained in Section 60 of the Civil Procedure Code. The Applicant is duty bound to honour his undertaking. It is purely a matter between him and the Society which is not before us. We, therefore, do not like to intervene in the matter. Accordingly, the OA is dismissed. There shall be no order as to costs.

Dated, the 28th July, 2008.



Dr. K.S. SUGATHAN
ADMINISTRATIVE MEMBER



GEORGE PARACKEN,
JUDICIAL MEMBER

VS