

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.219/98

Monday this the 9th day of March, 1998.

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

HON'BLE MR. S.K. GHOSAL, ADMINISTRATIVE MEMBER

N.Sivanandan,
Higher Selection Grade II
Postal Assistant,
Department of Posts,
Karunagappally.

...Applicant

(By Advocate Mr. S.Krishnamoorthy).

Vs.

1. The Chief Post Master General,
Kerala Circle, O/o the Chief Post Master
General, Thiruvananthapuram.

2. Post Master General,
Central Region, Ernakulam.

3. The Senior Superintendent of Post Offices,
Kollam Division, Kollam.

...Respondents

(By Advocate Mr.KS Bahuleyan for Shri TPM Ibrahim Khan)

The application having been heard on 9.3.98, the tribunal on
the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant, a Higher Selection Grade Postal
Assistant has filed this application challenging the order
dated 17.12.97, which is the decision of the second
respondent communicated by the third respondent to the
effect that the applicant is not entitled to any additional
housing loan as recommended by the Fifth Central Pay
Commission and that the applicant having not submitted the
completion report in time, the entire loan would be
recovered by blocking the applicant's pay and allowances.
The applicant has stated in the application that by giving

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effect to the impugned order the applicant's pay and allowances for the month of December, 1997, January and February, 1998 have been completely withheld. According to the applicant the above action is unlawful and unjustified and therefore, he prays that the impugned order may be set aside and the respondents may be directed to consider his request for enhanced housing loan in accordance with the recommendations of the Fifth Central Pay Commission.

2. Learned Senior Central Government Standing Counsel appearing for the respondents has filed a statement indicating that as the applicant has not submitted the completion report within the time stipulated as also till date, in accordance with the provisions of Rule 7(a)(ii) of the House Building Advance Rules, the whole amount could be recovered in lump and therefore the recovery of the amount by blocking the entire pay and allowances of the applicant is perfectly in order.

3. The applicant has filed a rejoinder in which he contest the stand taken by the respondents in the reply statement.

4. When the application came up for hearing today, learned counsel for the applicant states that the applicant is not pressing the relief for a direction to respondents to consider the grant of enhanced House Building Advance in this application. He states that the applicant is confining his relief to the challenge of the impugned order to the extent by which his entire pay and allowances are being blocked.

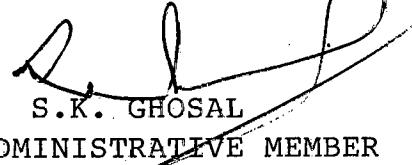
5. After hearing the learned counsel on either side and on a careful perusal of the pleadings available on record, we are of the considered view that the impugned order of the respondents to the extent it directs the blocking of the entire pay and allowance of the applicant for the reason that he did not submit the completion report within the

stipulated period is totally unjustified. The rules only provide that if the Government servant does not submit the completion report within the stipulated time, which is permissible to be extended by another one year by the competent authority, to recover the entire amount in a lump by calling upon the Government servant to refund the entire amount. In this case the respondents have not called upon the applicant to refund the amount but they have resorted to blocking the entire pay and allowances of the applicant, which is not provided for in the rules. If the competent authority takes a decision not to extend the period of submission of the completion report, the competent authority can call upon the applicant to refund the entire outstanding balance on the HBA and only on the applicant's failure to do so, they can make recoveries from the pay and allowances in accordance with rules. The respondents obviously have deviated from this procedure for reasons best known to them. It has also came out that the applicant has since submitted the completion report. In any case we are of the view that the impugned order cannot be sustained in regard to the blocking of the entire pay and allowances of the applicant. We, therefore, set aside the impugned order to that extent and direct the respondents to disburse the pay and allowances of the applicant which have been withheld and to continue to pay to him the pay and allowances. However, it will be open for the competent authority to take note of the applicant's failure to submit the completion report in time and the fact that the completion report has since been submitted and to take an appropriate decision and action if

considered necessary in accordance with the Rules.

6. With the above direction and observation, the application is disposed of. No order as to costs.

Dated the 9th day of March, 1998.


S.K. GHOSAL
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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