

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.255/99

Monday this the 25th day of June, 2001.

CORAM

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G.RAMAKRISHNAN, JUDICIAL MEMBER

A.L.Maniappan
S/o Lakshmanan
Sub Divisional Engineer (OCB-II)
Telephone Bhavan,
Kasargode.

Applicant

[By advocate Mr.M.R.Rajendran Nair]

Versus

1. Union of India represented by
its Secretary to Govt. of India
Ministry of Communications
New Delhi.

2. The Chief General Manager
Telecom, Kerala Circle
Trivandrum.

3. The General Manager, Telecom
Kannur.

4. M/s Bharath Sanchar Nigam Limited
represented by the Chief General Manager,
Telecom Kerala Circle,
Trivandrum.

Respondents.

[By advocate Mr.R.Madanan Pillai, ACGSC]

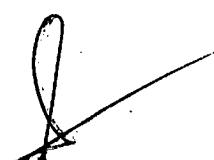
The application having been heard on 25th of June, 2001, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER

Applicant seeks to quash A-1 and to direct the respondents not to recover the disallowed imprest amount from his salary.

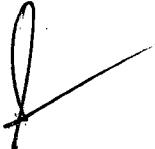
2. Applicant is a Sub Divisional Engineer. He was served with A-1 order. He says that before issuing A-1 order for recovery, he was not given a reasonable opportunity. He



further says that the disputed expenditure is not incurred by him alone and the recovery now ordered leaves practically nothing for him to take home as salary.

3. Respondents resist the OA contending that the applicant was intimated to credit the amount to the Government account and was granted sufficient time for the same. As per letter dated 5.1.99 he was informed that his representations were considered by the General Manager and time was granted upto 15.1.99 for submission of satisfactory proof in support of his claim and failing which the amount will be recovered from him. The order for recovery was made on 15.2.99. The applicant cannot now say that the order was received all of a sudden and that too without affording him an opportunity. He is drawing a total salary of Rs. 10798. He is contributing Rs.7750 towards his provident fund. As he is contributing more amount to his GPF for reasons of his own, the department is not responsible for that.

4. The first contention taken by the applicant is that the impugned order issued is behind his back and it is in violation of the principles of natural justice. A-1 the impugned order is dated 15.2.99. R-2 dated 5.1.99 is addressed to the applicant by the Deputy General Manager. It clearly shows that the applicant was given a reasonable opportunity to make his submission. Thereafter the applicant submitted A-8 to the Deputy General Manager. It is only after considering A-8, A-1 has been issued as it is evident from A-1. That being the



position, that stand of the applicant that A-1 order was issued behind his back and without affording him an opportunity cannot be accepted.

5. Another ground stated is that the expenditure is not incurred by the applicant alone. The applicant has not stated any provision of law in the OA nor was submitted across the bar that the liability is only joint. In the absence of any legal basis, the stand that the expenditure is not incurred by the applicant alone and therefore he cannot be held responsible cannot be accepted.

6. Another ground raised is that the recovery now ordered leaves practically nothing for him to take home as salary. Respondents have clearly explained what is the total salary that the applicant is getting and how much he is contributing towards his GPF. From respondents' statement, it is clear that the lion's share of the applicant's monthly salary is paid towards his GP fund. It is not denied by the applicant. So the situation is as created by the applicant himself. Applicant has not relied on any provision of law which prohibits the respondents from recovering to the tune of Rs. 5000/- as shown in A-1.

7. The last ground raised is that recovery from pay on account of loss caused to the Government is a penalty under Rule 11 of CCS (CCA) Rules. It was submitted across the bar that proceedings have been initiated against the applicant



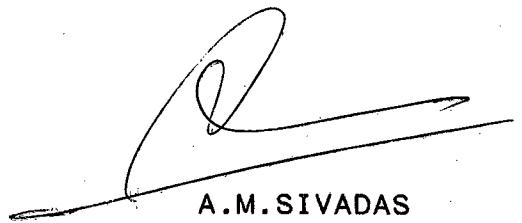
under Rule 14 of CCS(CA) Rules. That being so, here the proceedings are not taken under the provisions of CCS(CCA) Rules. Action is taken as per Telecom Financial Hand Book Vol.III (Part.I). That being so, the question of penalty under CCS (CCA) Rules does not arise.

8. Accordingly the OA is dismissed.

Dated 25th June, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

aa.

Annexures referred to in this order:

A-1 True copy of the Memo No.A57/OBJ/ICP.II/KSZ/19 issued by the Deputy General Manager (O), 3rd respondent dated 15.2.99.

A-8 True copy of the representation dated 12.1.99 submitted by the applicant to the DGM, Office of the General Manager, Telecom District, Kannur-2.