CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No.259/99

Thursday, this the 11th day of March, 1999.

CORAM

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

Joseph V. Micheal,
Sorting Assistant, Head Record Office,
Railway Mail Service,
Calicut.

...Applicant

By Advocate Mr. Siby J. Monippally.

Vs.

1. Post Master General,
Northern Region, Calicut.

2. Superintendent,
Railway Mail Service,
Calicut Division, Calicut.

3. Head Record Officer,
Office of the Head Record Officer,
Railway Mail Service,
Calicut.

...Respondents

By Advocate Mr K. Kesavankutty, ACGSC.

The application having been heard on 11.3.1999,
the Tribunal on the same day delivered the following:

O R D E R

The applicant seeks to declare that the action of the respondents initiating recovery against him is illegal and without jurisdiction and that he is not liable to pay any amount of money to the department.

2. The applicant says that the second respondent has issued direction to the Head Record Officer, Calicut, to recover certain amount of money from him in monthly instalments of Rs.500/- since January, 1999 and one instalment is already recovered. The applicant came to know about this recovery only when the amount was deducted at the time when the salary was paid to him for the month of January, 1999.

3. The learned counsel appearing for the respondents submitted that the applicant has already submitted a representation to the second respondent on 4.12.98. A copy of the same is also made available for my perusal. In the said representation, the applicant has stated that he is under great financial stress and recovery may be effected @ Rs.100/- per month from his salary from the month of December 1998 onwards. The said representation is not disputed by the learned counsel for the applicant. From the said representation, it is very much evident that the version of the applicant in the O.A. that:

> "The applicant came to know about the recovery only when the amount was deducted at the time when the salary was given for the month of January, 1999" is totally false.

4. A person who approaches the Tribunal should come with clean hands and if anybody approaches the Tribunal suppressing material facts within his knowledge and thereby makes an attempt to mislead the Tribunal with the intention of obtaining some favourable order which he is not entitled to in law should necessarily face and suffer the consequence. The consequence is that the O.A. will be dismissed.

5. As seen from the copy of the representaton submitted by the applicant produced by the learned counsel for the respondents, it is clear that the applicant has wilfully, deliberately and with an ulterior motive has suppressed a material fact which is well within his knowledge. That being so, the O.A. is only to be dismissed.

6. The Original Application is accordingly dismissed. No costs.

Dated the 11th day of March, 1999.

A.M. SIVADAS
JUDICIAL MEMBER

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