

**Central Administrative Tribunal, Lucknow Bench, Lucknow**

**ORIGINAL APPLICATION No.146/2008**

This the 10<sup>th</sup> day of March, 2010

**Hon'ble Dr. A.K. Mishra, Member (A)**

Nand Lal Kushwaha, aged about 62 years, son of Late Ram Badan Kushwaha, permanent resident of Village and Post Office Kanta, District Chandauli (presently residing at House No.110, Chhoti Jugauli, Kursi Road, Lucknow) [lastly working as Officer on Special Duty in the office of the Postmaster General, Gorakhpur Region, Gorakhpur].

.....Applicant

By Advocate: Sri Prashant Singh for Shri R.C. Singh.

**Versus**

1. Union of India through the Secretary, Ministry of Communication (Department of Posts), New Delhi.
2. Postmaster General, Allahabad Region, Allahabad.
3. Superintendent of Post Offices, Mirzapur Division, Mirzapur.

.....Respondents

By Advocate: Shri Vishal Choudhary for Km. Asha Choudhary.

**ORDER (Oral)**

**By Hon'ble Dr. A.K. Mishra, Member (A)**

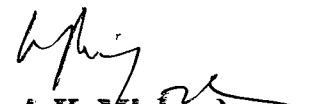
This application has been made challenging the order dated 20.09.2005 passed by Respondent No.3 for recovery of Rs.31,267/- from the salary of the applicant without obtaining decree from the competent court.

2. Admittedly, the applicant had filed Civil Suit No.229/1999 in the court of Civil Judge, Mirzapur which was dismissed with cost. Neither the cost was determined by the court nor any order was passed in execution thereon. The respondent no.3 has assessed the cost on his own and determined it to be Rs.31,267/- as seen from the impugned order dated 20.09.2005. In addition to the court fee of Rs.120/- and the Bill amount of Rs.2,700/- of Government Counsel, Mirzapur, T.A. /D.A. amount of Rs.26,657/- of staff and TA/DA amount of Rs.1790/- of C.P. Jaiswal, SSRM, Allahabad have been included. At the time of arguments, it was conceded by the learned counsel for the respondents



that as per law the cost should have been assessed and awarded by the Civil Court itself. However, he submits that the respondent authority should be given liberty to take steps in obtaining an order from the Civil Court about the exact amount of cost which should be recovered from the applicant.

3. In the circumstances, the application is allowed. The impugned order dated 20.09.2005 is set-aside and the cost recovered is directed be refunded to the applicant. However, the respondents are at liberty to take legal steps before the civil court concerned for assessment of cost and its execution. No costs.



(Dr. A.K. Mishra)  
Member-A

Amit/-