

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A.No. 105/92

Uma Shankar G.D.Mishra

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant while working as S.P.M. Oraiayadhih District Pratapgarh, it was detected that he committed fraud by not depositing the amount which was given to him by the depositors and charge sheet was issued to him in respect of the fraud. The charges were proved and the applicant was dismissed from service vide order dated 29/30.11.1984. The applicant approached this Tribunal/vide order dated 2.1.1989 which was dismissed. It appears that because of the applicant's acts the department suffered loss of Rs 67,511.90 and as such taking into consideration the provisions section 3 & 4 of Public Accounts Default Act XII of 1850, the District Magistrate Pratapgarh was addressed to recover the amount of loss from the landed properties of the applicant vice office letter No. F/7/80-81 dt. 14.10.91. The case for defaulcation of the amount was also lodged against the applicant at crime No. 1681 and a case was registered and the police submitted the chargesheet

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in the court of Chief Judicial Magistrate, which is still pending.

2. On behalf of the applicant it has been contended that no recovery could be made without giving opportunity and recovery could not have been made.

3. It appears that no opportunity was given, nor he was called upon to recover the amount. In the circumstances the recovery was incorrect. The proceedings are quashed. However, it is made clear that it will be open for the respondents to take disciplinary proceedings in accordance with law, and in order to safeguard the property which has not to be sold or disposed of the respondents have to take action regarding the preservation of the same ^{may} so that it ~~may~~ not be transferred and ^{may} be available to the department. In case the applicant does not give written undertaking before the department then the the property will not be subject to transfer in any manner. No order as to costs.

A.M.

V.C.

Shakeel/-

Lucknow. Dated 27.11.92.