

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614

OA.NO. 22/87

Shri P.T.Ganpule, (Rtd),
Dy. Office Supdt.C.Ex.
Paranjape Wada Tilak Ali
Near Ganpati Par,
Ratnagiri 415612.

Applicant

V/S.

Collector of Central Excise
and Customs Pune, P.M.C.Building,
Hirabagh, Tilak Road, Pune 411002. Respondent

CORAM: Hon'ble Vice Chairman Shri B.C.Gadgil
Hon'ble Member (A) Smt.J.A.Dayanand

Appearance:

Applicant in person

Shri J.D.Desai (for Mr.M.I.Sethna)
Advocate
for the Respondent

ORAL JUDGMENT

Dated: 11.8.1988

(PER: B.C.Gadgil, Vice Chairman)

This is one of those matters which deserves to be allowed without much discussion in the judgment.

2. The applicant was working as Deputy Office Superintendent in the Ratnagiri Sub Division of the Collectorate of Central Excise and Customs. He retired on 30.6.1984. He was appointed as Tindel House Keeping at Rs.40/- per day on temporary basis w.e.f. 9.7.1984. A formal order in that respect was issued by the Assistant Collector of Sub Division Ratnagiri on 9.8.1984 (vide page 19 of the application). Applicant's services came to an end on 3.6.1985 (vide page 23 of the application). On 18.12.1985 (vide page 25 of the application) an impugned order was passed for recovering certain amount from the applicant. The amount ordered to be recovered is Rs.4,465.20. The applicant was entitled to an award of Rs.2000/-. That reward was confiscated and the remaining amount of Rs.2465.20 was ordered to be recovered from his pension amount. Before the applicant could file the present application, an amount of Rs.2100/- was recovered.

B.C.G

The Tribunal has stayed further recovery. The ground for impugned order is that the applicant was entitled only to the daily payment of Rs.21.70 and that he was really paid at Rs.40/- per day. The applicant has therefore claimed an appropriate order for quashing the recovery.

3. The respondents have resisted the application by contending that the applicant was not entitled to daily wages more than Rs.21.70. It was further contended that the appointment of the applicant was itself bad as the Asstt. Collector was not empowered to make such appointments.

4. It is surprising that the department after appointing the applicant on daily wage basis at the rate of Rs.40/- per day and after the applicant has rendered service for ten months, the department chose to contend that the applicant was entitled to a daily payment of Rs.21.70 instead of Rs.40/-. In fact, the impugned order was passed was six months after the services of the applicant were terminated. In our opinion, the impugned order is in the face of it illegal. Mr. Desai contends that such order is permissible. He contended that Asstt. Collector of Central Excise and Customs is not authorised to appoint any person on daily wages. His another contention is that a daily wage earner can get only Rs.21.70. And his last submission is that the applicant is not eligible for the post Tindel House Keeping. All these statements are not worth considering particularly when the Govt. has chosen to appoint the applicant to hold the post of Tindel House Keeping on daily payment of Rs.40/-. The Govt. has taken work from the applicant till 3.6.1985. There is much substance in the contention of the applicant that the applicant would not have accepted this offer had he been informed that he was to get only Rs.21.70. It will normally be cruel on the part of the Govt. to make a offer that the applicant would be paid Rs.40/- per day, to get services from him on the basis of such offer and thereafter (i.e. six months after the termination of service) to say that the applicant would not be entitled to get the remuneration agreed upon. The claim made by the respondents is obviously untenable.

5. The applicant has stated before us that he has come twice from Ratnagiri in connection with this application. In addition, he has paid Rs.50/- as the fee while making the application. We feel that it would be in the fitness of things to award to him the cost of this application. We quantify the cost amount at Rs.250/-.

6. The application is partly allowed. The impugned order dated 18.12.1985 is quashed. The respondents are directed to pay to the applicant Rs.4,100/- and the cost amount of Rs.250/- within one month from today. Respondents are further restrained from making any recovery from the applicant. The respondents to bear their own costs of the application.

B.C.Gadgil
(B.C.Gadgil)
Vice Chairman

Dayanand
(Smt. J.A. Dayanand)
Member (A)