

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH AT BOMBAY, NEW BOMBAY

Transferred Application No. 7/86

(Transferred Suit No. 367/84 of  
the Court of the Civil Judge,  
Sr. Divn., Yavatmal)

Rajabhai Bhaurao Deshpande,  
Occ. Retired Deputy A.P.F.M,  
Yavatmal Tq.,  
Yavatmal Dist.

Applicant

V/s

1. The Secretary,  
Ministry of Communication,  
P & T Department,  
New Delhi.
2. Director General,  
Posts & Telegraphs,  
Dak Tar Bhavan,  
New Delhi.
3. Additional Post Master General (Mofusil)  
Maharashtra Circle,  
Bombay.
4. The Pre-Post Master,  
G.T.O.  
Bombay.
5. Superintendent of Post Offices,  
P & T Department,  
Wardha.
6. Post Master,  
Head Post Office,  
Yavatmal.
7. Regional Director,  
Postal Services,  
Nagpur Region,  
Nagpur.

Respondents.

Coram: Vice-Chairman B.C.Gadgil

Member J.G.Rajadhyaksha

Oral Judgment: (Per Vice-Chairman B.C.Gadgil)

1. Applicant in person.
2. Shri A.B.Bhele,  
Office Supervisor,  
O/O The Supdt. Post Offices,  
Wardha Divn., Wardha.

This is an unfortunate litigation which could have been avoided by the Postal Department by taking immediate action.

*B.C.G.*

The Applicant joined the Postal service as a Clerk in 1944. He completed training in Morse operation before 16.2.1965. As per the order dt. 14th October, 1977 (No. 207/3/68-STP-I/P.A.P) the Applicant was entitled to One advance increment w.e.f. 16-2-1965. In due course, the amount was calculated on that basis and such advance increment was paid to the Applicant. However, Audit took an objection that the Applicant was not entitled to such amount and consequently the Postal Department recovered Rs. 808.25 from the Applicant's DCRG. This recovery was made on 4-12-1981. The Applicant made several representations saying that this recovery was illegal. However, no useful purpose was served. Therefore, he filed Regular Civil Suit No. 367/84 in the Court of Civil Judge Sr. Divn., Yeotmal for recovering this amount and also for certain other amounts as detailed below :-

Rs. 808.25 The amount that was illegally deducted and recovered  
Rs. 254.75 Interest @ 12% P.A. from 1.12.81 to 30.11.84  
Rs. 1,000.00 Compensation for mental and physical torture,  
Rs. 50.00 Towards Notice charges.

The Defendants viz. Union of India & various officers of the P&T Department filed written statement in the suit. In substance they contended that the recovery that was made was quite legal and proper and the suit was liable to be dismissed.

The Suit was transferred to this Tribunal as it was liable to be so transferred under Central Administrative Tribunals Act, 1985. The Tribunal issued notices to the Applicant and the Respondents for hearing the matter. Accordingly, the Applicant is personally present, while Mr. A. B. Bhele, Office Supervisor from the Office of the Supdt. of Post Offices, Wardha Division, Wardha, is present on behalf of the Respondents i.e. original Defendants.

During the course of hearing our attention has been drawn to a communication No. 15-13/84-PAP dt. 11.1.85 which suggests that the impugned recovery was not proper. On the basis of this letter Post Master General, Bombay has informed the Applicant on 18.1.85 that appropriate orders have been passed for settling the case immediately.

*B.M.*

In view of these orders it is quite clear that the recovery of Rs.808.25 was erroneous. Consequently the Applicant is entitled to get back the amount. The Applicant has claimed Rs.1,000/- as damages for mental and physical torture. However, that claim does not appear to be permissible, and it is, therefore, rejected. At the same time the Applicant would be entitled to Rs.254.75 as interest upto the filing of the case and Rs.50/- towards notice charges. Thus the total amount to which the Applicant is entitled would come to Rs.1113/- It is true that Mr. Bhele has submitted that the interest should not be granted on the amount of Rs.808.25. However, we do not agree with the submission, particularly, because the amount has been wrongly deducted and recovered from the Applicant. As far as the notice charges are concerned the Applicant is entitled to have the amount as under section 80 of the 'Code of Civil Procedure' the Applicant is bound to issue a notice before filing the ~~case~~ case.

The Applicant then claims that he should be awarded the costs of the Suit. Mr. Bhele submitted that in view of the fact that the Department has passed orders on 11.1.85, the Respondents should not be burdened with the costs. However, we cannot forget that the Applicant has already filed the suit in 1984, and he has incurred the costs, for example he has paid Court Fee of Rs.175/-. He has also incurred expenditure on engaging Advocates in the Court of the Civil Judge Sr. Division Yeotmal. We would like to quantify the applicant's costs (including Court Fee) at Rs.387/- in the total.

Thus the Applicant would be entitled to get Rs.1,500/-, together with future interest from 29.11.84 till the actual date of payment @ 12% P.A. on Rs.808.25.

Order:

The Respondents should pay to the Applicant Rs.1,500/-; together with interest from 29.11.84 till the actual date of payment @ 12% P.A. on Rs.808.25. The Respondent should bear their own costs.

*B.C. Gadgil*

(B.C.GADGIL)  
Vice-Chairman

*J.G. Rajadhya*  
(J.G. RAJADHYAKSHA)  
Member.

1 Received copy of Order  
endo rep. No. 7/86  
21/1/86

2 Received copy of Order  
Applicant No. 7/86  
21/1/86