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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6  
PRESCOT ROAD, BOMBAY 1

OA NO.28/89

Smt. Jayashree D A Malshe  
A-1 Sukhada Cooperative Housing Society  
Vazira Naka; Lokmanya Tilak Marg  
Borivali(W); Bombay 92

Applicant

v/s

Union of India  
through Secretary  
Labour Department & Rehabilitation  
New Delhi & 2. ors.

Respondent

Coram: Hon. Ms. Usha Savara, Member(A)

APPEARANCE:

Mr. R R Dalvi  
counsel for applicant

Mr. R K Shetty  
Counsel for respondents

ORAL JUDGMENT:

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DATED: 22.10.93

(Per: Ms. Usha Savara, Member [A])

1. The only grievance of the applicant is that at the time of her retirement the respondents passed an Office Order dated 28.5.87 by which a sum of Rs. 22,366.50 was sought to be recovered as it had been paid in excess to one of the claimants i.e., Smt. Safiyabi

Shaikh Hussein. This amount was to be recovered from the gratuity of the applicant. Subsequently, however, the respondents only recovered only Rs. 4,970.33.

2. Shri Dalvi, learned counsel for the applicant submitted that this amount was withheld from the gratuity of the applicant without giving a show cause notice by which she would have had an opportunity to put up her case for non-deduction of the amount from the gratuity.

3. Learned counsel for respondents referred to Rule 71(2) of the CCS Pension Rules and submitted that the recovery of Government dues was incumbent upon the respondents before the Government servant retires. However, it was not denied that no show cause notice was given to the applicant. Learned counsel for the respondents further submitted that the said amount which has been recovered from the applicant's gratuity will be refunded to her as and when it is recovered from the concerned party.

4. In the circumstances, the respondents are directed to issue show cause notice to the applicant, show her the documents on the basis of which recovery has been ordered, consider her representation and reply and thereafter pass a speaking order on merits. This exercise should be completed within a period of three months of receipt of a copy of this order.

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5. With the above directions the application is disposed of with no order as to costs.

6. A copy of this judgment/order be given to the parties.

*Usha Savara*  
(Usha Savara)  
Member(A)

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