

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 11th DAY OF DECEMBER 1986

Present : Hon'ble Shri Ch.RAMAKRISHNA RAO MEMBER(J)

Hon 'ble Shri L.H.A.REGO MEMBER(A)

APPLICATION No.1631/86(F)

R.Santhanam,
Senior Accountant,
Office of the Deputy Director of Accounts,
Postal, Bangalore. ... APPLICANT

(Shri H.S.Jois ... Advocate)

V.

The Deputy Director of Accounts,
Postal, Karnataka Circle,
3rd Floor, G.P.O.,
Vidhana Veedhi,
Bangalore - 1. ... RESPONDENT

(Shri M.S.Padmarajaiah ... Advocate)

This application has come up before the court today. Hon'ble Shri Ch.Ramakrishna Rao, Member(J) made the following :

ORDER

In this application the applicant, a Senior Accountant in the office of the Deputy Director of Accounts, Postal, Karnataka Circle, Bangalore (respondent) is aggrieved by the action of the latter in recovering a sum of Rs.200/- p.m. from October 1985 from his pay.

2. Sri H.S.Jois, learned counsel for the applicant, contends that his client was not served with any notice by the respondent disclosing the reasons for deducting Rs.200/-p.m. from his pay and in the absence of any such notice, the recovery is not legally sustainable.

3. Sri M.V.Rao, learned counsel for the respondents,

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submits that the recovery of Rs.20/-p.m. from the pay of the applicant was necessitated because he owed amounts to the Bangalore Postal Audit Housing Society, Bangalore(Society, for short) and in complinace with the demand made by the Society the aforesaid recovery was made by the respondent. According to Sri Rao, the Society is functioning under an Act of the Legislature of Karnataka State; that there is provision in the Act for recovery of any dues from a member of the Society; that the applicant had also executed an agreement with the Society for recovering Rs.200/- p.m. from out of his pay and in view thereof the grievance of the applicant is not justified.

4. We have considered the rival contentions carefully. In our view, the agreement entered into by the applicant with the Society will not ipso facto enable the respondents to recover the amount due to the Society. In any case, rules of natural justice require that the applicant should be put on notice of the facts leading to the recovery and it is only after hearing him in the matter that an order can be passed by the respondent for effecting recovery from the pay of the applicant. The position would, however, have been different in the respondent was also a party to the agreement but in the present case the agreement seems to be only between the applicant on the one hand and the Society on the other.

5. It will be pedantic to cite any decided cases in support of the proposition that a notice of the kind mentioned by us above is a sine qua non for effecting recovery from the pay of the applicant. We may, however, cite a leading decision, which is the locus classicus on the subject, namely, Cooper V. Wandsworth Board of Works (1853), 14 C.B.(N.S.)180. Another is Spackman V. Plumstead District Board of Works 10 A.C.229 in

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which Selborne L.C. has succinctly stated :

"It is a matter not of a kind requiring form, not of a kind requiring litigation at all, but requiring only that the parties should have an opportunity of submitting to the person by whose decision they are bound such considerations as in their judgement ought to be brought before him."

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6. We, therefore, annul the direction issued by the respondent to the disbursing officer regarding deduction of Rs.200/- p.m. from the pay of the applicant. Amounts already recovered from the pay of the applicant shall be refunded.

7. The respondent is, however, at liberty to issue a notice in the light of our above observations and after hearing the applicant pass such orders as he may deem fit. The applicant is at liberty to approach this Tribunal if he is aggrieved by the order which the respondent may pass after giving due notice to him, in the manner indicated above.

8. In the result, the application is allowed. No order as to costs.

Ch. Ramabharathi
MEMBER(J) 11-12-86

MEMBER(A) 11-12-86

AN.

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
@@@@@@@@@@@@@@@@

Commercial Complex(BDA),
Indiranagar,
Bangalore - 560 038

Contempt of Court

Dated : 2-7-87

7 APPLICATION NO 13/87 /~~xx~~()
In Application No.1631/86(F)

~~XXXXXXXXXX~~

Applicant

R.Santhanam

V/s. The Deputy Director of Accounts(Postal),
Karnataka Circle, Bangalore.

To

1. Shri.R.Santhanam,
~~Major~~, Senior Accountant,
O/o. The Deputy Director of Accounts(Postal),
Bangalore- 1.
2. The Deputy Director of Accounts (Postal),
Karnataka Circle,
General Post Office,
Vidhana Veedhi,
Bangalore- 1.
3. Shri.M.S.Padmarajaiah,
Sr. Central Govt. Standing Counsel, High Court Buildings, B'lore- 1.

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~xxxx~~/

~~XXXXXXXXXXXX~~ passed by this Tribunal in the above said
application on 23rd June, 1987

Heer
SECTION OFFICER
(JUDICIAL)

Encl : as above

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 23RD DAY OF JUNE, 1987

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-chairman
and
Hon'ble Shri L.H.A. Rego, Member (A)

CONTEMPT OF COURT APPLICATION NO. 13/87

Shri R. Santhanam,
Major, Senior Accountant,
O/o the Deputy Director
of Account (Postal),
Bangalore-1.

.... Petitioner

v.

The Deputy Director of Accounts
(Postal), Karnataka Circle,
General Post Office,
Vidhana Veedhi, Bangalore-1.

.... Contemnor

(Shri M.S. Padmarajaiah, CGSSC)

This application having come-up for hearing to-day,
Vice-Chairman made the following.

O R D E R

Case called.

2. We have heard Shri R. Santanam, who is the petitioner and Shri M.S. Padmarajaiah, Senior Central Government Standing Counsel, who takes notice for the contemnor and files his memo of appearance for him.

3. In this application made under Section 17 of the Administrative Tribunals Act, 1985 ('Act'), and the Contempt of Courts Act, 1971, the petitioner has moved this Tribunal to punish the contemnor for wilful disobedience of an order made in his favour in A.No. 1631/86 (F) on 11.12.1986.



4. In the order made, this Tribunal had inter-alia directed the refund of a sum of Rs. 200/- to the petitioner earlier recovered from him. We find that the order of the Tribunal though dated 11.12.1986, was communicated to the parties, including the contemnor, only on 1.5.1987. In the order itself, this Tribunal had not specified any time-limit for refund of the amount of Rs. 200/- to the petitioner. Shri Padmarajaiah submits that the contemnor had already taken necessary action for refund and will also refund the amount specified in the order to the petitioner with all expedition and in any event within a period of two months from this day. On the facts and circumstances of the case, we cannot hold that the contemnor has wilfully disobeyed the order of this Tribunal. We are also of the view that the maximum time sought for by Shri Padmarajaiah to comply with the order is fair and reasonable. We do hope and trust that the contemnor will faithfully implement the order within the time stated before us, without giving rise to another needless proceeding under the Act. With these observations, we reject this application at the admission stage itself. But in the circumstances of the case, we direct the parties to bear their own costs.



"True copy"

11/06/87

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

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Vice-Chairman *23/10*

23/10
Member (A) *23-6-87*

Mrv.