

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 453/91

~~Transfer Application No~~

DATE OF DECISION: 4.8.1994

M.W. Abhyankar Petitioner

Mr. N A Kulkarni Advocate for the Petitioners

Versus

Union of India Respondent

Mr. P.M. Pradhan Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S. Deshpande, V.C.

The Hon'ble Shri V. Ramakrishnan, Member(A)

1. To be referred to the Reporter or not ? *no*
2. Whether it needs to be circulated to other Benches of the Tribunal ? *no*


Vice Chairman

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

O.A.NO.453/91

M.W. Abhyankar

..Applicant

V/s

Union of India & Ors.

Respondents

Coram: Hon.Shri Justice M.S. Deshpande, Vice Chairman
Hon. Shri V. Ramakrishnan, Member (A)

Appearance:

Mr. N.A.Kulkarni
Counsel for the applicant

Mr. P.M. Pradhan
Counsel for the respondents


ORAL JUDGMENT:

DATED: 4.8.1994

(Per: M.S. Deshpande, Vice Chairman)


The relief claimed by the applicant originally was payment of Rs. 47,700 together with interest as his terminal benefits consequent upon his retirement on 29th July 1988 and for setting aside the liability of Rs.2,624.59 ps. on account of loss of library books which were in the charge of the applicant.

2. After this application was filed the applicant filed Miscellaneous Petition No. 869/92 on 12th October 1992 for a direction to the respondent to pay the amount



of Rs.20,000 which was the amount of gratuity which was not disputed by the respondents. On 17.2.93 the Tribunal passed an order asking the respondents to pay the amount of Rs. 20,000 or even more if it is not disputed and is clearly admissible to the applicant within a period of four weeks from the date of receipt of a copy of this order. Accordingly the amount of Rs.41,760 was paid to the applicant. An amount of Rs.5,940 was held in balance. The respondents had to recover an amount of Rs.3,315 on account of other dues from the applicant and Rs.2,625 was the balance. On 25.4.90 a notice was issued to the applicant stating that 433 books worth Rs. 5249.17 ps. were lost and Shri S P Saha, Projectionist had retired without handing over of the charge. The notice asked the applicant to show cause why 50% of the amount i.e., Rs.2624.59 should not be recovered from the applicant. In his reply dated 12.5.90 the applicant stated that his predecessor had not handed over the charge to him and most of the time the library used to be locked and he had intimated the then Director that he should visit the Library. Without looking into the grievance of the applicant or recording any evidence, an order was passed on 5th October 1990 stating that the reason furnished for not effecting the recovery of the cost of lost library books was not convincing and was not satisfactory and an amount of Rs.2,624.59 should therefore be recovered from him.

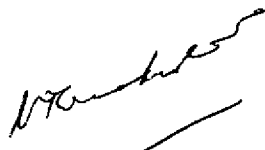
3. We are constrained to say that in view of the objections raised by the applicant a regular enquiry should have been held and an opportunity to lead evidence

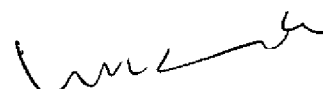


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should have been given. The department itself should have led evidence to show that the loss of library books was attributable to the applicant. Without doing so the order dated 5.10.90 was passed and that order cannot be supported. We quash that order.

4. With regard to the claim for interest we find that since an amount of Rs.20,000 was offered initially and the applicant refused to accept that amount, the department cannot be asked to pay interest on Rs.20,000. From the remaining amount an amount of Rs. 3,315 shall have to be recovered towards income tax and the applicant has no grievance about it. The applicant would be entitled to interest on the amount of Rs.24,385 which was belatedly paid to him and we direct that interest should be paid on this amount @ 12% per annum from the date of applicant's retirement i.e., from 29 July 1988 until repayment. The amount of interest shall be calculated and interest together with balance shall be paid to the applicant within four months from the date of receipt of a copy of this order. No order as to costs.


(V. Ramakrishnan)
Member(A)


(M.S. Deshapande)
Vice Chairman