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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 1221/92, 1224/92, 1225/92 &
1238/92

Transfer Application No:

DATE OF DECISION 21-12-92

S/Shri B.G. Nagarkar, M.S. Kelwalkar, --- Petitioner
R.T. Patil, M.V. Dalvi

Shri B. Dattamoorthy Advocate for the Petitioners

Versus

Union of India Through The Chief Respondent
Postmaster General? Maharashtra Circle,
Bombay.


Shri J.G. Sawant Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri M.Y. Priolkar, Member(A)

The Hon'ble Shri

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?


(M.Y. Priolkar)
Member(A)

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(3)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
BOMBAY

O.A. No. 1221/92
1224/92
1225/92
1238/92

Shri R.G.Nagarkar
Shri M.S.Kelwalkar
Shri R.T.Patil
Shri M.V.Dalvi

...

Applicants

vs

Union of India Through
The Chief Postmaster General
Maharashtra Circle,
Bombay-400-001 & another. ...

Respondents

Coram: Hon'ble Mr. M.Y.Priolkar, Member (A)

Appearance:

Shri B.Dattamoorthy for the
applicants.

Shri J.G.Sawant for the
respondents.

Tribunal's Order

Dated 21-12-92

(Per: Hon'ble Mr. M.Y.Priolkar, Member(A))

Since the facts in all four cases are identical and the reliefs prayed are essentially the same, all these four applications were heard together and are being disposed of by this common order.

2. The applicants are the employees of the Department of posts. They were sanctioned House Building Advance of Rs.50,000 each after scrutiny of the necessary documents which were produced by them. It appears that subsequently it has come to light that the builder from whom the applicants had purchased tenements with this advance had not obtained proper permission of the competent authorities for the construction of the tenements and the documents furnished by him purporting to be clearances for such construction were not genuine. The grievance of the applicants is that the respondents are enforcing the recovery of the


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entire balance amount of the house building advance from the applicants, and the entire salary due to the applicants since the last 11 months or so is being appropriated towards repayment of the house building advance.

3. It is not disputed that the applicants have not deliberately misled the department or that they are not a party to the fraud perpetrated by the builder. In fact, the applicants have been staying in these tenements for about one year and 8 months. According to the learned counsel for the applicants, although the clearances stated to have been obtained from the Municipal Corporation for the construction of the tenements have been found to be not genuine, the tenements in question have neither been declared illegal nor are they being demolished. He stated that, in fact, there is a move to regularise these tenements constructed by the builder. Learned counsel for the applicant has brought to my notice O.M. dated 29-7-64 of the Department of Post, Ministry of Labour and Housing in which it has been laid down inter alia that in cases where the Government servant concerned is required to refund the entire amount advanced to them together with the interest thereon in one lump sum, the competent authority may permit recoveries in suitable instalments each of which should not be less than 33 per cent of the individual's basic pay. The learned counsel for the applicants offered to pay each month an instalment to the extent of 40% of the basic pay of the applicants towards recovery. In my view this is a reasonable offer in the peculiar circumstances of this case which could be dealt with on the analogy of the cases referred to in O.M. dated 29-7-64 cited above. It appears that the balance still to be recovered is about Rs.40,000 plus interest. Respondents are directed that from the salary of the applicants for the month of Jan.1993 onwards, ~~deduction towards~~ every month

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and such recovery shall not be made in excess of 40% of their basic pay. The respondents may, if they so wish, also require that the applicants give additional surety of one more permanent Government employee for the balance amount due. They may also impose the condition that in case the tenement is sold or transferred in any manner by the applicant the proceeds should be utilised to clear off the amount due to the Government on the date of sale or transfer in one lump sum. With these directions, the applications are disposed of, with no order as to costs.


(M.Y. Priolkar)
Member(A)