

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 1295/92

DATE OF DECISION: 6/1/2000

Shri Madhavrao Sadashivrao Chitnis Applicant.

-----Advocate for
Applicant.

Versus

Union of India & 2 Ors.

-----Respondents.

Shri R.Ranganathan for
Shri J.P.Deodhar

-----Advocate for
Respondents.

CORAM:

Hon'ble Shri B.N.Bahadur, Member(A).

Hon'ble Shri S.L.Jain, Member(J).

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to
other Benches of the Tribunal?
3. Library.

No

B.Bahadur

(B.N.BAHADUR)
MEMBER(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:1295/92
DATED THE 6TH DAY OF JANUARY,2000.

CORAM:HON'BLE SHRI B.N.BAHADUR, MEMBER(A)
HON'BLE SHRI S.L.JAIN, MEMBER(J)

Shri Madhavrao Sadashivrao Chitnis,
Retired Government Servant,
r/o.House No.G-18-N4
CIDCO, Aurangabad.

... Applicant.

v/s.

1. The Union of India

2. The Director General,
Archaeological Survey of India,
New Delhi-110 011.

3. The Superintending Archaeologist,
Archaeological Survey of India,
South-Western Circle, Aurangabad. ... Respondents.

By Advocate Shri R.Ranganathan for
Shri J.P.Deodhar.

(ORDER) (ORAL)

Per Shri B.N.Bahadur, Member(A).

This is an application made by Shri M.S.Chitnis, who retired from the service of the respondents, as Senior Conservation Assistant, in the year 1978. We must mention at the outset, that neither the applicant nor his counsel were present today, and since earlier opportunities have also been given to them, it was decided to dispose of this application on merits on the basis of pleadings, etc. We have, nevertheless, had the benefit of hearing Shri R.Ranganathan for Shri J.P.Deodhar, Counsel for Respondents.

2. Without going into too many details of the somewhat long history of this case, it will suffice to mention the facts. An

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amount of Rs.11,314/- by way of DCRG, was payable to applicant on his retirement. There was a controversy about shortage of cement, for which applicant was held responsible, *prima facie*. A detailed enquiry was made, as evident from the records and finally ~~from~~ a letter dated 16/6/84 was issued(Exhibit-G) to the applicant, informing him of the decision to deduct Rs.3926/- from the balance amount of DCRG withheld. It must be mentioned here that Rs.6,000/- out of the amount due as DCRG had earlier been released to the applicant on 7/1/1982.

3. Being aggrieved, the applicant had filed application in the High Court in 1990, which was transferred to this Tribunal. We have heard the learned counsel for respondents, in detail and suffice it to say that this was a case of recovery ~~where an~~ ^{after} ~~and~~ enquiry was made. At this length of time, it could neither be possible nor justifiable for this Tribunal to go into the details of the calculations of the amount of Rs.3926/- ~~which was~~ ^{which was} ~~and~~ finally decided to be recoverable. An opportunity has been provided to the applicant by respondents by way of letter dt.16/6/84, and a protracted correspondence by way of representations, and an analysis of the merits of this case have been done even by the Central Office. Thus the Principles of natural justice are substantially complied with.

4. We, nevertheless, note concomitantly, that it is clear and admitted that an amount of Rs.1,388/- (Rupees One thousand three hundred and eighty eight) has nevertheless remained with the respondents through out. Learned counsel for respondents admits this, but states that he is unable to clarify as to whether this

amount has since been paid in the interim period. Now, admittedly this amount should have been paid to the applicant, atleast on 7/1/82, that is at the time when the amount of Rs.6,000/- was paid to him. It is therefore, proper ^{and} in the interest of justice, that this amount should be paid to him along with interest from this date. There was no excuse for this amount not being paid to the applicant.

5. It is true that the applicant has come for legal redress in 1990 and that too he has approached the High Court when the Tribunal had already been set up. For this reason also, we are not going into the question of the merits of the deduction of Rs.3,926/-. It will however, only be fair to consider the question of payment of balance amount to be covered as a continued cause of action (i.e. amount of Rs.1,388/-).

6. In the facts and circumstances of the case, we are making the following orders:-

a) The amount of Rs.1,388/- which continued to be withheld, shall be paid to the applicant, alongwith interest @ 6% w.e.f. from 7/1/82 till the date of payment. If the amount of Rs.1,388/- has since been paid, the payment of interest on the said amount shall nevertheless be made from 7/1/82 till the date of payment of Rs.1388/-.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

REVIEW PETITION NO.6/2000

In

ORIGINAL APPLICATION NO.1295/92

Dated this Wednesday, the 15th Day of March, 2000.

Coram : Hon'ble Shri B.N. Bahadur, Member (A)
Hon'ble Shri S.L. Jain, Member (J).

Shri M.S. Chitnis .. Petitioner

Vs.

Union of India & 2 Others .. Respondents.

Order on Review Petition by Circulation
[Per : Shri B.N. Bahadur]

This is a Review Application, No.6/2000, filed by Shri M.S. Chitnis, in respect of the Order dated 6.1.2000 made in the Original Application No.1295/92. The main point that is taken in this Review Petition is that on Page 2, line 2 of the Judgment, it has been stated that a detailed enquiry was made about the controversy of cement etc. The contention is that only a preliminary investigation was made and that no Disciplinary Proceedings were initiated.

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2. The stand of the petitioner is that an error has been made to the effect that the judgment states that an enquiry was made and that this word "Enquiry" is sought to be read as "Departmental Enquiry". We have

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carefully seen the Order made in the O.A.No.1295/92. It would be clear from the reading of the order ~~contended~~ that the word "Enquiry" refers to be a process of fact finding which has been described in detail. In any case no departmental enquiry is referred to and no where a decision being based on this understanding. Therefore it has been clear that there is no error apparent in the Order dated 6.1.2000.

3. In view of the above decision there is no case for a review before the Tribunal. Therefore the Review Petition is hereby rejected.

S.L.Jain
(S.L. Jain)

Member (J)

Bn Bahadur
(B.N. Bahadur)

Member (A).

H.