

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated: 3 SEP 1993

APPLICATION NO(s). 505 of 1993.

Applicant(s) H.S.Vadiraj v/s. Respondent(s) Secretary, Deptt.
of Posts, New Delhi & Others.

To

1. Sri.H.S.Vadiraj, Son of Late H.Srinivasa, Sub-Post Master, Bull Temple Road Post Office, Bangalore-560 004.
2. Sri.R.Sherath Chandra, Advocate, 5/62, Vishwabharathi Nilaya, Fifth, ninth Cross, Fourth Block, Rajajinagar, Bangalore-10.
3. The Secretary, Department of Posts, New Delhi.
4. The Director General of Post, Sanchar Bhavan, New Delhi.
5. The Post Master General, Karnataka Region, Palace Road, Bangalore.
6. The Senior Superintendent of Post, Bangalore South Division, Bangalore.
7. The Post Master, Bangalore South Range, K.R.Road, Bangalore.
8. Sri.M.S.Padmarajaiah, Central Government Standing Counsel, High Court Building, Bangalore-1.

SUBJECT:- Forwarding of copies of the Order passed by the Central Administrative Tribunal, Bangalore Bench Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY/INTERIM ORDER passed by this Tribunal in the above said
application(s) on 23-08-93.

gm*

Issued

[Signature]

M. [Signature]
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

8/9/93

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE TWENTYTHIRD DAY OF AUGUST, 1993

Present: Hon'ble Shri S. Gurusankaran, Member (A)

Hon'ble Shri A.N. Vujjanaradhya, Member(J)

APPLICATION NO.505/1993

Shri H.S. Vadiraj
S/o. Late H. Srinivas
working as a Sub-Post Master
Bull Temple Road Post Office
Bangalore-4.

..... Applicant

(Shri Sharatchandra, Advocate)

Vs.

1. The Union of India
represented by its Secretary
Department of Post, New Delhi.
2. The Director General of Post
Govt. of India, Sancharbhavan
No.20, Ashoka Road, New Delhi.1.
3. The Post Master General
in Karnataka, Palace Road
Bangalore.
4. The Senior Superintendent of Post
Bangalore South Division, Bangalore.
5. The Post Master
Bangalore South Range
K.R. Road, Bangalore.

..... Respondents

(Shri M.S. Padmarajaiah, S.C.G.S.C.)

This application having come up for hearing
before the Tribunal today, Hon'ble Shri S. Gurusankaran,
Member(A), made the following:

O R D E R

In this application filed under Section 19
of the Administrative Tribunals Act, 1985, the applicant is
aggrieved by the order dated 9.6.1992 (Annexure-A1) under
which the incentive payment made to the applicant for the period



January 1986 to May 1987 is sought to be recovered and has prayed for setting aside the impugned order dated 9.6.1992 and direct the respondents to reimburse the deductions already made from the applicant and also stop further recovery being made pending the disposal of this case. The applicant had also prayed for an interim order directing the respondents not to make further recovery till the disposal of this case and interim relief vide order dated 19.5.1993 was issued staying the recovery of further amount from the month of May, 1993 onwards.

2. On issue of notice, the respondents have filed their reply contesting the application.

3. We have heard Shri Sharatchandra for the applicant and Shri M.S. Padmarajaiah for the respondents. We find that the respondents have averred that the payment of incentive for the period January 1986 to May 1987 was irregular in as much as the scheme was not at all in existence during that period. They have also submitted that he cannot equate his claim with overtime allowance since overtime is paid on day to day basis. But Shri Sharatchandra, the learned counsel for the applicant, strongly pleaded that the order for recovery for overpayment and actual recovery have been affected in gross violation of the principles of natural justice in as much as no show cause notice was given to the applicant to present his side of the case. We find lot of merit in this submission and since the incentive payment has already been made to the applicant, he has acquired civil right. Any civil right acquired cannot be taken away from the employee without following

the principles of natural justice by issuing a show cause notice indicating the detailed reason as to why the respondents consider that the overpayment was irregular and propose to recover the same. On this short ground alone, the applicant is bound to succeed.

4. In view of the above, we allow this application partly and set aside the order dated 9.6.1992. We also direct the respondents to repay the overpayment reimbursed already deducted to the applicant within a period of 90 days from the date of receipt of a copy of this order. The interim order passed on 19.5.1993 is made absolute.

5. However, on the submission of the learned counsel for the respondents, liberty is given to the respondents that they may issue a show cause notice giving the detailed reasons for the proposed recovery, if they so desire and after receiving the reply of the respondents and making final orders on that take further action if necessary regarding the proposed recovery. The applicant is also at liberty to approach this Tribunal in case he is aggrieved by any such final order consequent on the issue of show cause notice. The application is disposed off as above. No order as to costs.

O.P.

Sd/-

(A.N. VUJJANARADHYA)
MEMBER(J)

Sd/-

(S. GURUSANKARAN)
MEMBER(A)



TRUE COPY

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

8/9/93