

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 683 of 1994.

Dated this Wednesday, the 4th day of August, 1999.

Raghunath Nivrutti Jagtap, Applicant.

Shri S. P. Kulkarni, Advocate for the
applicant.

VERSUS

Union of India & Others, Respondent.

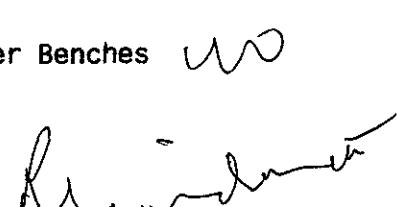
Shri S. S. Karkera for
Shri P. M. Pradhan, Advocate for the
Respondent.

CORAM: Hon'ble Shri Justice R. G. Vaidyanatha, Vice-Chairman.

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

(i) To be referred to the Reporter or not ?

(ii) Whether it needs to be circulated to other Benches
of the Tribunal ?


(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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CORAM : Hon'ble Shri Justice R. G. Vaidyanatha, Vice-Chairman.

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

Raghunath Nivrutti Jagtap,
Postman,
CIDCO Colony,
Post Office (Nashik),
Nashik - 422 009.

Residing at N/52/SE-4/37/5,
CIDCO Uttamnagar,
Nashik - 422 009
At P. O. Nashik,
Nashik - 422 009.

... Applicant.

(By Advocate Shri S. P. Kulkarni)

VERSUS

1. Union of India through
Sr. Superintendent of Post
Offices, Nashik Postal Division,
Nashik - 422 001,
Dist. Nashik - 422 001.
2. Postmaster,
Nashik Road Head Post Office,
Nashik Road,
Nashik - 422 002.
3. The Director of Postal Services,
Aurangabad office of postmaster
General, Maharashtra Circle,
Aurangabad - 431 002.
4. Postmaster General,
Maharashtra Circle,
Aurangabad Region,
At P.O. Aurangabad -431 002. ... Respondents.

(By Advocate Shri S. S. Karkera for
Shri P. M. Pradhan).

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ORDER (ORAL)

PER : Shri R. G. Vaidyanatha, Vice-Chairman.

This is an application filed under Section 19 of the Administrative Tribunals Act. Respondents have filed reply. We have heard the Learned Counsel appearing on both sides.

2. The applicant is working as a Postman. It appears, due to some misconduct, the first charge-sheet was issued against him which ended in a punishment vide order dated 31.01.1985 under which the Disciplinary Authority imposed the punishment of reducing the pay of the applicant from Rs. 250/- to Rs. 210/-, the minimum of time scale for a period of one year w.e.f. 01.02.1985. There is a further direction that the applicant will not earn any increment during the said period of one year. It is further stated that this will have the effect of postponing his future increment.

It appears, a second charge-sheet was issued against the applicant and that resulted in an order of punishment dated 16.05.1985 under which the penalty of reduction of pay of the applicant to the minimum of time scale for a period of five years was ordered. It was further stated that applicant will not earn increments during this period and this will have effect on further increment. It is further made clear in the order that the second penalty order will take effect after the expiry of the first penalty order.

The applicant's grievance is that the respondents did not take any action to implement the order of punishment except till recently. It appears, the respondents started implementing the second order of penalty only in 1994 by deducting amounts from the pay of the applicant. Hence, the applicant has approached this Tribunal. His stand is that respondents cannot wake up after five years and start recovering the amount. Therefore, the applicant wants that the action of the respondents in recovering the amount from the pay of the applicant should be quashed and applicant must be restored with all financial benefits.

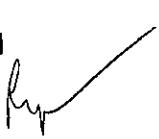
3. The respondents have explained in the reply the circumstances under which the recovery took place against the applicant. They have also further pointed out that as per the two orders of punishment, Rs. 13,663/- should have been recovered from the applicant but now the department has recovered Rs. 14,945/-. They have also stated that this excess amount would be repaid to the applicant. They have taken some other contentions which are not relevant for our present purpose.

4. The first contention of the applicant's counsel is that respondents cannot take action after five six years to implement the order of penalty and the action is barred by limitation. No rules were brought to our notice to show that there is any time limit for executing an order of punishment. We have perused the C.C.S.(C.C.A) Rules but we find that there is no such limitation provided in the rules for the department to enforce the order of

penalty. Hence, we cannot accept the contention of the applicant that respondents are trying to enforce a time barred claim as alleged in the application.

5. The next contention by the applicant's counsel is about excess amount recovered from the applicant before and after filing of the O.A. Now the respondents themselves have admitted that there is recovery of certain amount, which we have pointed out above. As per the statement made in the reply, the excess amount comes to Rs. 1,282.00 and the respondents have stated in the reply that the amount would be refunded to the applicant but as on today, both the Counsel do not have instructions to say whether this amount have been refunded to the applicant or not. We, therefore, direct that the said amount should be refunded to the applicant unless it has already been refunded.

Applicant's counsel made a grievance that some more amount has been recovered from the applicant during the pendency of the O.A. There is no sufficient material on record for us to come to any positive conclusion. Since the respondents themselves have stated as to what amount is due to them, namely - Rs. 13,663/-, they will have to refund any excess amount recovered from the applicant. Therefore, we will have to give a direction to the respondents to refund any excess amount over and above Rs. 13,663/- to the applicant.



Another grievance made by the Learned Counsel for the applicant that due to delay in the implementation of the order of punishment, the promotion of the applicant is delayed. We only observe that in view of the orders of punishment and now admittedly, since the amount has been recovered from the applicant, we hereby declare that the applicant has undergone both the punishment by 31.01.1991. If after 31.01.1991 the applicant is entitled to any relief according to rules, he must get it.

6. In the result, the O.A. is disposed of with a direction to the respondents to refund Rs. 1,282.00 as admitted in the written statement (if not already refunded) within a period of two months from the date of receipt of a copy of this order. If in addition to this amount there is recovery of any excess amount ~~over and above~~ ^{of} Rs. 13,663.00, the same shall be refunded to the applicant. We also give liberty to the applicant to make a representation to the department to point out the details of excess amount recovered from him and on receipt of such representation, the administration may investigate and refund whatever excess amount recovered from the applicant. If the applicant is still aggrieved by any such payment or non-payment, then he can approach this Tribunal according to law. In the circumstances of the case, there will be no order as to costs.

B. N. Bahadur

(B. N. BAHADUR) ..

MEMBER (A):

R. G. Vaidyanatha

(R. G. VAIDYANATHA)

VICE-CHAIRMAN.