

(13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.1191/93

Date of Order : 4.2.94

BETWEEN :

T.Gopal

.. Applicant

AND

1. Post Master,
Medak H.O.
2. Superintendent of
Post Offices,
Medak Division,
Medak.

.. Respondents.

Counsel for the Applicant

.. Mr.S.Ramakrishna Rao

Counsel for the Respondents

.. Mr.N.R.Devraj

CORAM:

HON'BLE SHRI V.NEELADRI RAO : VICE-CHAIRMAN

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

SHR

OA 1191/93 and NA 910/93

Judgement dated 4.2.94.

(AS PER HON'BLE JUSTICE SHRI V. NEELADRI RAO,
VICE-CHAIRMAN)

Heard Shri S. Ramakrishna Rao, learned counsel for the applicant and also Shri N.R. Devaraj, learned Sr. Standing counsel for the respondents.

2. The applicant is working as an EDDA/ Packer, Kuchanpally. During 1985, the small savings authority, Government of Andhra Pradesh appointed the applicant as an authorised agent to procure small savings business under Standardised Agency system. He did the business under the said Standardised Agency system ^(SAS) from 1986 to 1992 and he was paid an amount of Rs.14,699/- as commission for the said business.

3. As per D.G.(P) letter No. 3-15/79-80 dated 19.12.81 and 69-3/83-SB dated 20.8.83, the applicant ^{was eligible for} be appointed as SAS Agents. ^{meit} As the applicant was an EDDA, the Auditor observed that his appointment under SAS is irregular according to Government of India, Ministry of Finance order No. 1/5/83 NS dated 1.7.83. On the basis of that, the Accounts officer ^{ordered for} recovery of an amount of Rs.14,699/-, the commission paid to the applicant in regard to the business procured as SAS agent. The same is

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challenged in this OA.// The question as to whether the appointment of the applicant as SAs agent was regular or not does not arise for consideration of this OA. One who is appointed as SAs Agent is entitled to the commission of $\frac{1}{2}$ to 2 per cent (the rate varies from the category of business) for business procured as SAs Agent. It is not the case of the respondents that the applicant has not procured the business for which he was paid the commission.

When once work was extracted from the applicant, he ^{has} ~~is~~ to be paid the commission. Even in a case where the appointment has to be held as ^{illegal} irregular, the salary paid for the period till he is removed on being noticed that the appointment was ^{irregular} illegal, cannot be recovered. It is ^{that} on the basis ^{that} the employer cannot return the benefit to the employee i.e. the service realised from the employee. Hence even assuming that the appointment of the applicant as SAs agent is ^{very} irregular, ~~for the period in question,~~ the commission which was paid in regard to the business procured by him as a SAs agent cannot ^{be} recovered. Hence the respondents are restrained from recovering the amount of Rs.14,699/- from the applicant in pursuance of the order of the Accounts officer.

4. In the result, the respondents are restrained from recovering Rs.14,699/- from the applicant on the basis of the objection raised by the Audit.

-/-.....

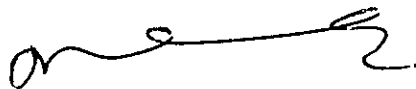
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5. It is submitted that already 4 instalments were recovered from the applicant. The amount recovered under ^{the} ~~these~~ instalments has to be returned to the applicant by 4-3-94.

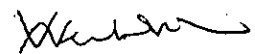
6. The OA is ordered accordingly. No costs.

7. The office has to communicate the copy of the order to the respondents by 14.2.94.

8. As the OA is disposed of, the MA 910/93 has become infructuous and accordingly it is dismissed.



(R. RANGARAJAN)
Member (Admn.)



(V. NEELADRI RAO)
Vice-Chairman.

(Open court dictation)

11-3-94
Dy. Registrar(J)C.C.

To

NS

1. The Post Master Madak H.O.
2. The Superintendent of Post Offices, Medak Division, Medak.
3. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
4. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. A. P. GORTHY : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. R. RAO CARAJAN : MEMBER
(ADMN)

Dated: 4-2-1994.

~~ORDER~~/JUDGMENT:

M.A./P.A/C.A. No.

in

O.A.No.

1191/93 -

T.A.No.

(W.P.No.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions.

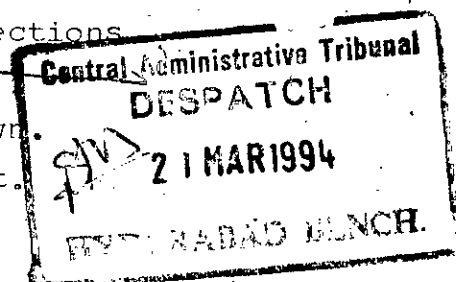
Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.



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7-3-94