

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AY HYDERABAD

O.A.No.1287/95

Date of Order: 21.6.96

BETWEEN:

H.Tikkanna

.. Applicant.

A N D

Union of India represented by:

1. The Chief Post Master General,
Andhra Pradesh Circle, Hyderabad.
2. Superintendent of Post Offices,
Kumool Division, Kumool.

.. Respondents.

Counsel for the Applicant

.. Mr.K.S.R.Anjaneyulu

Counsel for the Respondents

.. Mr.V.Bhimanna.

CORAM:

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

J U D G E M E N T

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

Heard Sri D.Subrahmanyam, for Mr.K.S.R.Anjaneyulu, learned counsel for the applicant and Mr.V.Bhimanna, learned standing counsel for the respondents.

2. The applicant in this OA while working as a Postal Assistant at Adoni Head Office claimed an amount of Rs.1,319/- as LTC amount for the block year 1978-81. He also claimed an amount of Rs.5,000/- against the LTC amount for the block year 1982-85. Bills were passed as per the claim, but subsequently after 5 years in the year 1987 it was sought to be recovered from the applicant. The applicant retired on superannuation on 31.8.87. An amount of Rs.7,000/- was withheld from his DCRG to make good the alleged bogus claim of LTC as indicated above.

3. The applicant filed Writ Petition No.11299/85 on the file of the ^{A.P.} High Court which was transferred to this Tribunal and re-numbered as TA.29/88 wherein the applicant challenged the recovery of Rs.1319/- treating it as a bogus LTC claim. That TA was disposed of by order dated 28.7.89. Operative portion of the order reads as below:-

IN VIEW OF THE REPORT
and in the circumstances of the case, I think it is just and proper to give an opportunity to the respondent to conduct an enquiry before ordering recovery of the amount. The petitioners should be given an opportunity to adduce evidence and file their documents to prove their case. After full enquiry and on the basis of the report of the Enquiry Officer, if the respondents still feel that the petitioners are guilty, they are at liberty to take action against the petitioners in accordance with law. Pending enquiry and further Departmental action if any, the respondents are directed not to recover any amounts from the petitioners."

4. The recovery of Rs.5,004/- was also challenged by the applicant and ~~he filed~~ he filed OA.131/86 on the file of this Bench which was disposed of on 21.7.87. That OA was also disposed of giving a direction to the respondents to hold an enquiry and decide the further course of action for recovery as given in TA.29/88. However no enquiry was conducted in those cases mentioned above before making any recovery. But the respondents had withheld Rs.7,000/- from the gratuity amount of the applicant after his retirement to make good the alleged bogus claim of Rs.1,319/- and Rs.5,004/- as indicated earlier. Annexure-1 Lr.No.C6/Pan/562 dated 11.1.95 is the impugned order for withholding of Rs.7,004/- from

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the DCRG amount of the applicant. Annexure-2 letter BGT/Pen/562 dated 28.2.95 is the instruction to the Postmaster for recovering the alleged bogus amount from the pensionary benefits of the applicant.

5. This OA is filed for setting aside the memo Nos. C6/Pan/562 dated 11.1.95 and Memo No. BGT/Pen/562 dated 28.2.95 showing LTC advances as outstanding and recovery of the same from DCRG after 7 years of retirement by holding those instructions as arbitrary, illegal and unlawful and for a further direction to pay the withheld amount of Rs.7,000/- to him with interest at 24%.

6. The respondents admit that the recovery proceedings were challenged by the applicant in earlier OA.131/86 and TA.29/88. They are also aware that an enquiry has to be conducted before recovering the amount as directed by this Tribunal in the above OAs. But they submit that the enquiry could not be conducted as the applicant had retired. They further contend that the enquiry could not be conducted as a charge sheet has to be issued and that charge sheet can be issued only with the approval of the President of India as the applicant had retired from service and because of the above reasoning no enquiry was conducted.

7. It is very strange to note the submission of the respondents for not conducting the enquiry. In the directions given by this Tribunal in both the cases namely TA.29/88 and OA.131/86 no where it is stated that a charge sheet had to be issued before conducting the enquiry. A plain reading of the directions given in those 2 cases clearly indicates that a fact-finding enquiry has to be conducted associating the applicant and on the basis of which a decision has to be taken by the competent authority whether to recover the alleged bogus LTC claim or not. The directions in those mentioned

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cases in no way contemplate issual of a charge sheet and to further take a decision on that basis. In my opinion the respondents are only trying to shift ~~the~~ⁱⁿ failure to conduct enquiry as directed earlier in the cases referred to above on some pretext and ~~coverup~~^{cover} their failure resorted to recover the amount by improper means. The submission that the enquiry could not be conducted as a charge sheet to be issued as he had retired is nothing but a cloak to hide their failure as stated above. To recover the amount by withholding the pensionary amount without enquiry as directed ^{the} in above OA, is not only irregular but also a violation of the Tribunal's direction. The respondents miserably failed to carryout the directions given by the Tribunal in cases referred to above. Hence they cannot now be allowed to hold an enquiry after lapse of 6 or 7 years after retirement and take further action on the basis of the enquiry to decide ~~with~~^{the} LTC amount claimed is correct or not. The respondents lost their right to recover the amount even if it is wrongly given to him due to their failure in conducting an enquiry intime and thereby arriving at a judicious decision. Hence the withheld amount of Rs.7,000/- from the pensionary benefits has to be returned back to the applicant without any further delay. But I do not propose to award any interest on the withheld amount as the applicant had approached the Tribunal late and also due to the fact that the interest burden will fall only on the tax payees.

8. In the result, the following direction is given:-
The withheld amount of Rs.7,000/- as per the impugned order No.C6/Pen/565 dated 11.1.95 (A-1) should be returned back to the applicant within one month from today.

9. The OA is ordered accordingly. No costs.

(R.RANGARAJAN)
Member (Admn.)

Dated: 21st June, 1996

(Dictated in Open Court)

sd

[Signature]
28/6/96
DR(7)

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O.A.NO.1287/95

Copy to:

1. The Chief Postmaster General,
Andhra Pradesh Circle,
Hyderabad.
2. The Superintendent of Post Offices,
Kurnool Division,
Kurnool.
3. One copy to Mr.K.S.R.Anjaneyulu, Advocate,
CAT, Hyderabad.
4. One copy to Mr.V.Bhimanna, Addl.CGSC, CAT, Hyderabad.
5. One copy to Library, CAT, Hyderabad.
6. One duplicate copy.

YLKR

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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

DATED: 21.6.96

ORDER/JUDGEMENT
O.A. NO./R.A./C.P. No.

in

O.A. NO. 1287/85

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
ORDERED/REJECTED _____
NO ORDER AS TO COSTS.

YLKR

II COURT

No Spare Copy

