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CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH:
AT HYDERABAD.

O.A.NO. 130 OF 1995.

DATE OF ORDER : 17TH NOVEMBER, 1997.

BETWEEN:

1. B.Narasimha
2. N.P.Sekhar
3. A.B. Gyaneshwar
4. T.K. Mathai
5. Kalupradhan
6. R. Komaraiah
7. Balakrishna
8. Kashinath
9. U.B.Sudarshan Rao
10. M. Ramesh
11. A. Angiah
12. K. Trilok Raj
13. R. Niranjana Kumar
14. M. Ramesh Babu
15. Smt. M. Shobha Rani
16. M.Lourdhanathan

... APPLICANTS

AND

1. Station Workshop, EME Type-L,
Secunderabad-500 015.
2. Tirumala Music Centre
16-2-27/105/10, Malakpet,
Hyderabad.
3. Manager,
Nagarjuna Investment Trust Limited,
26, Nagarjuna Hills, Panjagutta,
Hyderabad.

... RESPONDENTS

COUNSEL FOR THE APPLICANTS : MR. G.M. ANJIAH

COUNSEL FOR THE RESPONDENTS : MR. K. BHASKARA RAO

CORAM:

HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN)

HONOURABLE MR. B.S. JAI PARAMESHWAR, MEMBER (JUDL)

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O R D E R.

(Per Honourable Mr.B.S.Jai Parameshwar ,Member(Judl.)

1. Heard Mr.G.M.Anjaiah, the learned counsel for the applicants and Mr. K.Bhaskara Rao, the learned counsel for the respondent No.1. The respondent No.2 though served with notice, has remained absent. The respondent No.3 had engaged his counsel. When the O.A. was taken up for hearing, both the learned counsel and the respondent No.3 remained absent.

2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 30.1.1995.

3. There are 16 applicants in this O.A. They are working as Civilian employees under the respondent No.1. They borrowed some money

13000 from the respondent No.2 and/or respondent No.3 on certain conditions. At the time of borrowing money it appears that the applicants had given an undertaking to the respondent No.2/3 expressing their willingness to get the monthly instalments of repayment of loan deducted from and out of their monthly salaries by the respondent No.1. It is submitted that the respondent No.1 had deducted out of the salaries of the applicants certain sums ranging from Rs.547 to Rs.808/- per month. They submit that the respondent No.1 deducted out of their salaries the aforesaid sums for a period of 20 months.

4. On 11.5.1994 the applicants served a ^{legal} notice on the respondent No.1 not to effect deduction of any sum from their salaries, payable to the respondent No.2/3,

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The respondent No.1 did not reply to the said notice. The applicants gave another ^{legal} notice dated 28.5.1994. The copies of the notices dated 11.5.1994 and 28.5.1994 are at pages 33 and 37 of the O.A. On 7.6.1994 the respondent No.1 replied to the legal notice dated 28.5.1994 asserting justification in deducting the monthly instalments from and out of the salaries of the applicants and further directed the applicants to produce proof of payment of any sum to the respondent No.2.

5. When the respondent No.1 attempted to deduct the instalments from the salaries payable for the month of receive their salaries. During that month, the respondent No.1 did not recover any sum and however, disbursed the salaries to the applicants. The respondent No.1 was firm in his resolve to deduct the monthly instalments of loans payable towards the respondent No.2/3.

6. The applicants filed a writ petition bearing No.W.P.No.11253 of 1994 before the Hon'ble High Court of that deduction of any sum out of the salary of an employee came within the purview of "service matter" as defined under Section 3(q) of the Administrative Tribunals Act and directed the applicants to approach, in the first instance, this Tribunal. However, the applicants preferred an appeal against the decision of the Hon'ble High Court of Andhra Pradesh in Writ Appeal No.1442 of 1994. The Division Bench of the Hon'ble High Court of Andhra Pradesh took the same view and held that the writ petition was not maintainable. In the said writ

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proceedings, the respondents 2 and 3 had participated. The applicants have furnished the copies of the counter filed by the respondents 2 and 3 and final orders passed by the Hon'ble High Court of Andhra Pradesh in the said proceedings.

7. The applicants have filed this O.A. praying for a direction to the respondent No.1 not to deduct any monthly instalments from the salaries of the applicants as the said deduction of monthly instalments from their salary is illegal, without jurisdiction and also violative of Articles 14 and 16 of the Constitution of India.

8. The respondent No.1 has filed a counter stating scheme for providing the household articles and valuables etc., like Television set, Refrigerators/ to the employees of the respondent No.1; that the respondent No.3 provided the financial assistance for the applicants and others to go in for such valuables; that the applicants at the time of entering into the transaction with the respondents 2 and 3 had unequivocally undertook to repay the same in monthly instalments by getting the same deducted from out of their salaries to be disbursed to them by the respondent No.1. The respondent No.1 further stated that the O.A. is not maintainable as the Hire Purchase agreement alleged to have been entered into by the applicants with the respondents 2 and 3 is outside the matter pertaining to this Tribunal. However, the respondents could not state as to what items of valuables the applicants had purchased from the respondent No.2 or

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the respondent No.3. The applicants contended that they had borrowed the loan from the respondent No.2.

The respondents 2 and 3 have not filed any separate counter to this O.A.

9. After hearing the learned counsel for the applicants and the learned counsel for the respondent No.1, the point that arises for our consideration is, whether the respondent No.1 was justified in deducting any sum out of the salaries of the applicants after they served a notice dated 11.5.1994 through their Advocate.

10. The transactions between the applicants and the respondents 2 and/or 3 are outside the purview of their performance of duties with the respondent No.1. It is submitted that at the time of entering into the transaction with the respondents 2 and 3, the applicants gave an undertaking to the effect that the monthly instalments could be recovered from their employer i.e. the respondent No.1. So long as the said undertaking was in force, the respondent No.1 was justified in deducting the same from out of the salaries of the applicants. When once the applicants revoked their undertaking, then the respondent no.1 was not justified in deducting any sum payable to the respondents 2 and 3.

10. Deductions or recoveries are governed by the Rules 70 to 79 of the Central Government (Receipts and Payments) Rules, 1963. There are certain deductions which are voluntary and compulsory. The compulsory deductions can be made by the employer, such as, contribution to Provident Fund, Health Scheme, Group Insurance Scheme and advances taken from the Government or the recognised

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Cooperative institutions wherein the statutory obligation has been created in the relevant Act for the employer to deduct the instalments from the salary. The insurance premia may also come under this category.

11. The voluntary deductions are the one which the employee may undertake with a private agency. These voluntary deductions can be made so long as the employee is willing for the deductions. When once the employee revokes his intention, then the employer cannot deduct any sum out of his salary. The employer can only deduct any sum from the salary of the employee only under a warrant of attachment issued by a competent Court; otherwise cannot.

12. The question of such voluntary deduction came up for consideration before the Madras Bench of this Tribunal in K. Asaithambi and others v. Union of India ((1993)25 ATC 782) and in Venkatakrishnan and others v. Union of India ((1993)25 ATC 659). In the case of Venkatakrishnan, in para 6 the Madras Bench of this Tribunal has observed as follows :

"6. The respondent has filed a reply-affidavit. While he states that he had acted on the instruction of the applicants as above he has not been able to show under what rule or authority such deductions towards repayment of a private loan taken by a government servant could be made from the salary which is legally payable to him. Every government servant acquires the right to receive salary and allowances for the service performed by him and such salary and allowances are computed as per the service rules applicable to him. Any deductions from such salary and allowances can be made only as per law, applicable to the government servants. There is no provision in the service rules whereby a government servant who takes a private loan can instruct the Government to deduct

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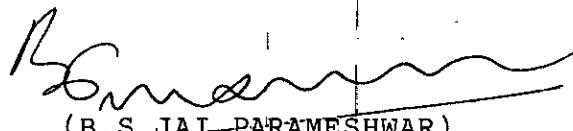
the repayments from his salary. The respondent also acted without any authority in accepting the communications from the applicants and making deductions from the salary towards the private loan. Such deductions would be clearly illegal."

13. So long as the applicants were willing for deductions of the monthly instalments of the loan they had taken from the respondent No.2 or 3, the respondent No.1 was justified in deducting the same. When once they expressed their intention through the legal notice dated 11.5.1994, the respondent No.1 was not justified in deducting any sum from the salaries of the applicants.

14. By an interim order dated 31.1.1995 this Tribunal had restrained the respondent No.1 from remitting the amount deducted from the applicants to the respondents 2 and/or 3 on the basis of the authorisation of the applicants.

15. In our opinion, the application succeeds. The respondent No.1 must be restrained from effecting any deduction from and out of the salaries payable to the applicants towards the transactions they had with the respondent No.2 or the respondent No.3.

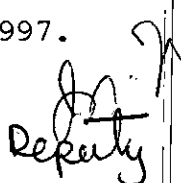
16. With the above direction, the O.A. is disposed of; but without any order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDICIAL)
17.11.97


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

DATED THE 17TH NOVEMBER, 1997.

DJ/


Deputy Registrar

O.A. 130/95

To

1. The Commanding Officer,
Station Workshop, EME Type-L
Secunderabad-015.
2. One copy to Mr.G.M.Anjaiah, Advocate, CAT.Hyd.
3. One copy to Mr.K.Bhaskar Rao, Addl.CGSE. CAT.Hyd.
4. One copy ATM.Rangaramanugam, Advocate, CAT.Hyd.
5. One copy to Mr. HBSJP.M.(J) CAT.Hyd.
6. One copy to Mr.R.(A) CAT.Hyd.
7. One spare copy.

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I Court.

TYPED BY:

CHECKED BY:

COMPARED BY:

APPROVED BY:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE.
VICE-CHAIRMAN

And

THE HON'BLE MR. H. RAJENDRA PRASAD : M(A)
The Hon'ble Mr. B. S. Jai Prameswar : M(D)

DATED:- 17/11/97

ORDER/JUDGMENT.

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in

O.A.No. 130/95.

T.A.No. (W.P.)

Admitted and Interim directions issued.

Disposed of with Directions.

Dismissed.

Dismissed as withdrawn

Ordered/Rejected

No. order as to costs.

