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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

ORIGINAL APPLICATION NO. 1570/1997

DATE OF ORDER : 27-4-1998

BETWEEN ;

K.K. John

... Applicant

AND

1. The General Manager, Telephones,  
Suryalok Complex, Gunfoundry  
Hyderabad.
2. The Accounts Officer  
O/O General Manager (Telephones)  
Gunfoundry,  
Hyderabad.
3. The Senior Post Master,  
Head Post Office,  
Khairatabad,  
Hyderabad 500 004.

... Respondents

Counsel for the Applicant : Shri G. Manohar

Counsel for the Respondents : -Shri N.R. Devaraj

CORAM :

THE HON'BLE SHRI H. RAJENDRA PRASAD, MEMBER (ADMN.)

ORDER

(per Shri H. Rajendra Prasad, Member (Admn.))

Heard Mr G. Manohar for the Applicant and Mr N.R.  
Devaraj for the Respondents.

The case came up for admission on 25-11-97 and  
was listed on four occasions thereafter. No reply has  
been filed on behalf of the Respondents.

The Applicant in this OA is aggrieved about the  
recovery of roughly Rs. 1800/- per month from his pension

*[Signature]*

from August, 1997 onwards. According to the Applicant he was drawing Rs. 2,450/- prior to the commencement of the recoveries and the pension has since been reduced to a meagre Rs. 622/-.

The brief facts of the case are that the Applicant is a retired Technical Supervisor of the Telecom. Department having superannuated on 31-12-1989. After retirement he applied for and was sanctioned a PCO with STD/ISD facility in the city. It appears that upto February, 1993, the Applicant was regular in the remittance of amounts of collections made at the PCO and credited the same to the Department regularly. Thereafter, no payments were made by him and he failed to pay up despite demand notes and legal notices. It is mentioned by the Respondents that finding no other way of enforcing the recovery of the dues, they directed the Senior Post Master, Khairatabad H.P.O., who was the pension disbursing authority, to recover the dues of the Department in instalments out of the DA and IR payable to the Applicant until the entire amount due could be liquidated. Accordingly, some recoveries were made between May, 1997 and November, 1997.

Mr N.R. Devaraj, Senior Standing Counsel, argued forcefully that this Tribunal has no jurisdiction to deal with the matter under Section 14 of the Central Administrative Tribunal Act, inasmuch as the recovery of dues to the Department is not a matter relating to the service or service conditions of the Applicant. He argued that the only remedy open to the Applicant under the circumstances was to initiate proper proceedings in an appropriate Civil Court. On the contrary, it was argued by Mr Manohar,

Q.  
/m

the Learned Counsel for the Applicant, that inasmuch as the pension granted to the Applicant was the result of a long service under the Government, any adverse action impinging upon his pensionary benefits was fit and eligible to be dealt with by this Tribunal, and can well be adjudicated by it.

The Senior Standing Counsel did not wish to present any arguments on facts since, in his view, the question was one basically of jurisdiction and the facts were not really the issue.

The submissions have been carefully considered. It may be true or possible that the Applicant had been remiss in the matter of remittances to the Department. If the Department is able to establish his culpability in this regard there can be nothing which could prevent them from enforcing the recovery of dues in an appropriate manner. Ordering of recoveries from the pension earned by the Applicant, <sup>and</sup> that too without any notice, is certainly not a proper or permissible action. I agree with the view that the pension, including accruals and accretions thereto under any head, are the result of service rendered by the Applicant under the Government and, these having acquired the position and attributes of a property, cannot lightly or easily be touched, reduced or attached without following certain basic procedures, howsoever compelling a situation or circumstance.

Coming to the jurisdiction aspect, I am constrained to turn down the argument of the Senior Standing Counsel by holding that this <sup>is</sup> Tribunal is fully competent to deal with this matter, since the question in this case is basically one of pension which is earned by the Applicant by virtue of his service under the Respondents; its

*Q. m.*

abrupt reduction without notice, no matter what facts or developments led to such reductions, has the effect of curtailing the pension, <sup>which,</sup> once sanctioned, certainly becomes a <sup>source of</sup> service grievance, even if the causes thereof may not immediately or automatically come under the generic category of 'Service' matters.

In view of the above discussion, it is held that the impugned mode of recovery from the pension of the Applicant is impermissible and shall not be made hereafter. The Respondents are at liberty to initiate

appropriate action to enforce recoveries of any dues which, in their confirmed opinion, is owed by the Applicant to the Government.

It has been complained on behalf of the Respondents that the Department has not been able to establish any contact with the Applicant despite notices sent to his known address. If true, this is not a happy situation and does not reflect well upon the Applicant. It is, therefore, directed that the Applicant shall call on the Accounts Officer, Office of the Area Manager (Central), in the Office of the General Manager (Telephones), Hyderabad, to discuss and interact with the said officer about the ongoing case relating to dues, etc., within 10 days prior to the drawal of the pension for the month of May, 1998. Delay or failure to do so would delay the disbursement of pension. From then onwards the matter will be governed and regulated entirely by the usual rules and procedures which are applicable or available to both parties.

Thus, the OA is disposed of in terms of the above order. No orders as to costs.

  
(H. RAJENDRA PRASAD)  
MEMBER (ADMN.)

(DICTATED IN OPEN COURT)

DATED : 27-4-1998

...js/-

  
D. R.

O.A. 1570/97

To

1. The General Manager, Telephones,  
Suryalok Complex, Gunfoundry, Hyderabad.
2. The Accounts Officer,  
O/o General Manager(Telephones)  
Gunfoundry, Hyderabad.
3. The Senior Postmaster, Head Post Office,  
Khairatabad, Hyderabad-4.
4. One copy to Mr.G.Manohar, Advocate CAT.Hyd.
5. One copy to Mr.N.R.Devraj, Sr.CGSC. CAT.Hyd.
6. One copy to HHRP.M.(A) CAT.Hyd.
7. One copy to DR(X) CAT.Hyd.
8. One spare copy.

pvm.

12/5/98

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)

DATED: 27-4-1998.

ORDER/JUDGMENT

M.A./R.A./C.A.No.

in

O.A.No.

1570/97

T.A.No.

(w.p.)

Admitted and Interim Directions  
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm.

12 MAY 1998

Despatch

RECEIVED

HYDERABAD BENCH

12 MAY 1998

RECEIVED

HYDERABAD BENCH

High Court File No. 140 of 1998

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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD

WRIT PETITION NO. 24975/98

Petition was filed in the High Court of Andhra Pradesh  
by Sri K.K. John V/s General Manager, Telecom, Hyderabad  
against the Order/Judgment of this Hon'ble Tribunal dt. 27-4-98  
and made in O.A.No. 1570/97.

The High Court was pleased to ~~dismiss the order of interim suspension~~  
~~stay the operation of Judgment~~ on 14/9/98.

The Judgment of the Tribunal in O.A.No. 1570/97  
and the ~~letter~~ order of the High Court of Andhra Pradesh enclosed  
herewith for perusal.

Submitted.

Deputy Registrar (J)

~~Registrar~~

Hon'ble Vice-Chairman

Hon'ble Member (A) I

Hon'ble Member (A) II

Hon'ble Member (J)

IN THE HIGH COURT OF JUDICATURE ANDHRA PRADESH, AT HYDERABAD.  
(SPECIAL ORIGINAL JURISDICTION)

MONDAY THE FOURTEENTH DAY OF SEPTEMBER  
ONE THOUSAND NINE HUNDRED AND NINETY EIGHT

PRESENT

THE HON'BLE MR. JUSTICE: B. SUBHASHAN REDDY

AND

THE HON'BLE MR. JUSTICE: VAMAN RAO

WRIT PETITION NO: 24975 of 1998

Between:

Sri. K. K. John,

..petitioner

and

1. The General Manager, Dept. of  
Telecommunication, Suryalok Complex,  
Gunfoundry, Hyd.
2. The Accounts Officer, O/o The General  
Manager (telephones) Suryalok Complex,  
Gunfoundry, Hyd.
3. The Senior Post Master,  
Head Post Office, Khairatabad, Hyd.
4. C. A. T. Hyd, Rep. for by Registrar, Hyd.

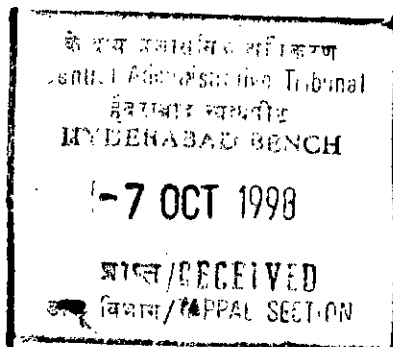
..Respondents.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ order or direction more particularly in the nature of a Writ or Mandamus that the action of the respondents in not implementing the orders of the Central Administrative Tribunal dt. 27-4-98 in O.A. No. 1570 of 1997 is arbitrary illegal and violative of the principles of natural justice and the Fundamental Rights guaranteed to me under Articles 14 & 21 and the Right to property Guaranteed to me under Article 300A of the Constitution of India and issue the consequential direction to the respondents to pay me the pension together with dearness Allowance and arrears.

FOR THE PETITIONER : MR. G. MANOHAR, ADVOCATE.

FOR THE RESPONDENTS: MR. P. SRINIVASULU, SC FOR CENTRAL GOVT.

THE COURT MADE THE FOLLOWING ORDER:-



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7/10/98



daily necessities. Pension is earned after long years of governmental service and a citizen cannot be treated in this manner more so when serious dispute with regard to the liability is raised. Sri P. <sup>Srinivasulu</sup> ~~Sreeramulu~~, the learned Additional Standing Counsel for the Central Government, vehemently contends that when the respondents feel that the petitioner is due certain amounts there is every right to withhold the amounts payable from the pension. We do not accede to his contention for the reason that the respondents' allegation at the most can be equated to a claim but they cannot render judgment for themselves. When a dispute of this nature is raised, the statute itself provides for adjudication. The relevant statute is the Indian Telegraph Act and the relevant provision is Section 7(6) contemplating resolution of disputes by way of arbitration. In the circumstances, we direct the respondents to continue to pay the pensionary benefits to the petitioner. Question of withholding any amounts payable to the petitioner, if the law permits, can arise only after arbitration award is passed. The 1st respondent is

BSR, J

&amp;

VR, J

Writ Petition No.24975 of 1998

Oral Order

(per The Hon'ble Sri Justice B.Subhashan Reddy)

This writ petition has been filed seeking implementation of the orders of the Central Administrative Tribunal, Hyderabad Bench, in O.A.No.1570 of 1997.

The dispute relates to the payment of pension. The complaint of the petitioner was that substantial part of the pension was being withheld unduly. The reply of the respondents was that the petitioner was due in an amount of more than Rs.4,00,000/- alleging that the said amount was collected from the callers of public call office and was not remitted. But this is disputed.

The respondents cannot assume unilaterally that the amount is due by the petitioner and on that premise withhold the pension. It is not disputed that the quantum of monthly pension is Rs.2400/- from which the petitioner has to feed himself and his wife. It is pertinent to mention that the petitioner had retired in the year 1990. The amount which is being withheld is Rs.1800/- leaving hardly Rs.600/- for sustenance of the petitioner and his wife which cannot meet their

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directed to refer the matter for arbitration in accordance with Section 7(B) of the Indian Telegraph Act, with regard to the liability or otherwise of the petitioner for remitting the amount of Rs.4,44,000/-.

Sri P. <sup>Srinivasulu</sup> ~~Sreeramulu~~, the learned standing counsel, complains that the petitioner is in the habit of evading notices. Sri G. Manohar, the learned counsel for the petitioner, submits that he undertakes the responsibility of such service and even he accepts the service and that may be deemed to be a service on the petitioner. We record this.

The writ petition is accordingly disposed of.

//true copy//

Sd/-K.V.H. RAO, -  
ASST. REGISTRAR,

SECTION OFFICER

To

1. The Genral Manager, Department of Telecommunication, Suryalok Complex, Gunfoundry, Hyd.
2. The Accounts Officer, O/o General Manager, (Telephones) Suryalok Complex, Gunfoundry, Hyd.
3. The Senior Post Master, Head Post Office, Kheiratabad, Hyd.
4. The Registrar, Central Administrative Tribunal, Hyd.
5. Two C.D. copies,
6. One C.C. Mr. P. Srinivasulu, Advocate.

C/K (7)  
18/9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 1570/97.

Date of Order: 25-11-97.

Between:

M.L. John

and

1. The General Manager, Telephones, Suryalok Complex, Gunfoundry, Hyderabad.
2. The Accounts Officer, C/o General Manager, Telephones, Gunfoundry, Hyderabad.
3. The Senior Postmaster, Head Post Office, Bhairatabad, Hyderabad-4.

.. Applicant.

.. Respondents.

For the Applicant: Mr. G. Manohar, Advocate.

For the Respondents: Mr. S.S. Devraj, I.C.S.

C.A.No.

THE HON'BLE MR. JUDGE, JUDGE : (1570/97)

The Tribunal made the following Order:-

1. Mr. Manohar for the applicant and Mr. S.S. Devraj for the respondents.

There is no impugned order in this case. The applicant submits that the authorities have suddenly reduced his pension by as much as Rs. 1829/- and given him only Rs. 622/- The reduction is stated to be on account of some excess billing in respect of a flat which was allotted to the applicant after the retirement. No other details are available.

C.A is admitted.

Notice to respondents, reply within eight weeks.

As interim measure it is directed that no deduction should be made from the pension of the applicant from this month onwards until further orders. The pension payable to the applicant on 1-12-97 for the month of November, 1997 shall be at the same rate at which he was paid for the month of April '97 paid on 1-5-97.

This direction shall remain in force until further orders. Respondents are free to seek modification of the same after filing their counter affidavit at any point of time within the date indicated. The Counsel for the respondents is free to make a special mention of this case and to seek modification of the interim order, if necessary, any time during this interval.

प्रमाणित प्रति  
CERTIFIED TO BE TRUE COPY

प्रमाणित प्रति  
Court Officer/Dy. Registrar  
केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
हैदराबाद-बेंच  
HYDERABAD BENCH

Sd/-x x  
Deputy Registrar