

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 26.6.2000

OA 354/95

K.N.Mathur s/o Late Shri C.N.Mathur, r/o 2-Kha-27, Jawaharnagar, Jaipur.

... Petitioner

Versus

1. Union of India through Director General Telecommunications, Sanchar Bhawan, New Delhi.
2. Chief General Manager, Telecom, Rajasthan, Jaipur.
3. General Manager, Telecom District, Jaipur, Opposite GPO Jaipur.
4. Director Finance, GMDT, Jaipur.
5. Accounts Officer, Telecom, (ACTA), O/o GMDT Jaipur.

... Respondents

CORAM:

HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER
HON'BLE MR.N.B.NAWANI, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.Rakesh Sharma

For the Respondents

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ORDER

(PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER)

In this OA filed u/s 19 of the Administrative Tribunals Act, the applicant makes a prayer to declare the order dated 30.12.94/ 5.1.95 as arbitrary and illegal and the respondents be directed to pay Rs.17289/- with interest @ 24% p.a. to the applicant.

2. Facts of the case, as stated by the applicant, are that the applicant was working as Assistant Engineer (Complaints), Telecom District, Jaipur, in June, 1990. It is stated that Rs.17289/- were kept in Safe as undistributed amount on 3.6.90. It is stated that on 3.6.90 the Safe was broken and Rs.17289/- were stolen. The applicant reported the matter to his superiors on 4.6.90. The applicant also lodged FIR at Vidhayakpuri Police Station on 4.6.90. The Police registered FIR No.169/90 and after investigation filed FR. It is stated that no departmental inquiry was initiated

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against the applicant. Applicant retired from service w.e.f. 31.12.94 on attaining the age of superannuation but vide impugned order an amount of Rs.17289/- was withheld from the amount of Gratuity payable to the applicant. It is stated that the impugned order, so far as it relates to withholding of gratuity amount of Rs.17289/-, is arbitrary and illegal and issued without any basis. No order to withhold the amount of gratuity was issued and no departmental inquiry was initiated against the applicant and Police after investigation did not find the applicant guilty of the charge. Therefore, the applicant prays that the amount so withheld be refunded to him alongwith interest.

3. Reply was filed. In the reply it is stated that applicant did not care to follow the rules, therefore, the applicant cannot absolve himself of the responsibility for the loss of government money by merely lodging FIR at the Police Station. Rs.17289/- was shown outstanding on the Last Pay Certificate of the applicant issued at the time of retirement. Therefore, the amount was withheld at the time of retirement. It is further stated that the applicant is clearly responsible for loss of Rs.5215/-, which could have been avoided by following the departmental rules. It is also stated that full opportunity was given to the applicant before the final order was passed for recovery. Therefore, the applicant has no case for interference by this Tribunal and this OA is liable to be dismissed.

4. Rejoinder was filed reiterating the facts stated in the OA.

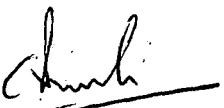
5. Heard the learned counsel for the applicant and also perused the case file.

6. It is not disputed that the amount so withheld was stolen from a Safe by breaking the locks on 3.6.90. It is also undisputed that the matter was reported to the Police, where a case was registered and after investigation final report was given and the applicant was not made responsible for the theft. No order by the

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competent authority was issued under Rule-9 of the CCS (Pension) Rules to withhold the amount of gratuity after the ~~next~~ retirement of the applicant. The Dy. General Manager (Planning), GMTD, Jaipur, has written to the Chief General Manager, Rajasthan Telecom Circle, Jaipur, and recommended that the loss on account of theft must be written off. No departmental proceedings were initiated against the applicant before withholding the amount of gratuity after superannuation of the applicant. Therefore, the amount of Rs.17289/- has been withheld without following ~~the~~ proper procedure and rules and without any basis.

7. We, therefore, allow this OA and ~~xxxxx~~ direct the respondents to refund the gratuity amount of Rs.17289/- ~~payable to the~~ ~~the~~ applicant, so withheld, to the applicant with interest @ 12% ~~per~~ annum w.e.f. 1.4.95 within the period of three months from the date of receipt of a copy of this order. No order as to costs.


(N.P. NAWANI)

MEMBER (A)


(S.K. AGARWAL)

MEMBER (J)