

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 14.01.2002

OA No.232/2001

S.P.Yadav s/o Shri late Khedh Yadav r/o Plot No.52, Shivpuri Colony, New Sanganer Road, Sodala, Jaipur, presently working as Chief Section Supervisor in the office of the C.G.M.T., Jaipur

..Applicant

Versus

1. Union of India through the Secretary to the Govt. of India, Department of Telecom, Sanchar Bhawan, Sansad Marg, New Delhi.
2. Chief General Manager, Telecom Rajasthan Circle, Jaipur
3. Superintendent, Vocational Rehabilitation Centre for Handicapped, 4-Sa-23, Suryapath, Jawahar Nagar, Jaipur.
4. Accounts Officer (Cash) O/c the C.G.M.T., Jaipur

.. Respondents

Mr.P.N.Jati, counsel for the applicant

Mr. B.N.Sandu, counsel for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Member (Judicial)

Hon'ble Mr. H.O.Gupta, Member (Administrative)

ORDER

Per Hon'ble Mr. S.K. Agarwal, Member (Judicial)

In this Original Application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to quash and set-aside the orders



at Ann.A1 dated 16.5.2001 and order at Ann.A4 dated 15.2.2001.

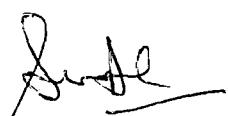
2. The case of the applicant, in nutshell, is that respondent Department has passed an order of recovery of Rs. 1330/- from the applicant without following the principles of natural justice. It is also stated that the Department has suo-moto paid the applicant special pay at the rate of Rs. 70/- p.m. and there was no mis-representation on the part of the applicant. Therefore, no recovery can be made after such a long time without following the principles of natural justice.

2. Reply was filed. In the reply it is stated that the internal audit has made an objection to this effect and on the basis of objections made by the internal audit the recovery orders have been issued. Thus, there is no requirement of giving any show-cause or application of principles of natural justice in this case.

3. Heard the learned counsel for the parties and also perused the whole record.

4. In Shahib Ram v. State of Haryana and others, (1994) 28 ATC 747, it was held by Hon'ble the Supreme Court that if there is no mis-representation by the employee, the recovery of the excess payment should not be made.

5. In Shyam Babu Verma v. Union of India and others, (1994) 27 ATC 121, it was held by Hon'ble the



Supreme Court that where the employee is not at fault, it shall be just and proper not to recover the excess amount already paid to him after a long time.

6. In the instant case, it appears that there was no mis-representation on the part of the applicant and there was no fault of the applicant while fixing the pay of the applicant. Therefore, in our considered view, the order of recovery made against the applicant is ex-facie illegal and liable to be quashed.

7. We, therefore, allow this Original Application and quash the impugned orders at Ann.A1 and A4. No order as to costs.

(H.O.Gupta)

Member (Administrative)



(S.K. AGARWAL)

Member (Judicial)