

**CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH**

OA No. 368/04

Jabalpur, this the 4 day of March 2005

CO R A M

Hon'ble Mr.Madan Mohan, Judicial Member

R.G.Upadhyay
S/o Late Shri Deo Dutt Upadhyay
R/o 731, Gautam Ganj
P.O.Garha, Jabalpur.

Applicant

(By advocate Shri M.N.Banerjee)

Versus

1. Union of India through
The Secretary
Department of Defence
Govt. of India
New Delhi.

2. Chairman
Ordnance Factory Board
Kolkata

3. General Manager
Vehicle Factory
Jabaalpur.

Respondents.

(By advocate Shri S.P.singh)

O R D E R

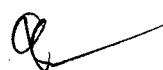
By Madan Mohan, Judicial Member

By filing this OA, the applicant seeks a direction to the respondents to effect recovery of interest amount only to the extent as per sanction order dated 7.2.94 (Annexure A1) and to return any amount deducted in excess to the applicant with interest.



2. The brief facts of the case are that the applicant was sanctioned House Building Advance of Rs.60,000/- vide order dated 7.2.94 (Annexure A1). The advance was disbursed in two equal installments. In the order, it was provided that the advance amount was to be deducted in 60 equal installments of Rs.1000/- each and upon completion of deduction of loan amount, deduction of interest would be started and the rate of interest would be 9%. The interest amount was to be deducted in 30 equal monthly installments @ Rs.487/- which meant the interest payable by the applicant comes to Rs.13,710/-. The applicant vide his letter dated 11.11.95 had requested to deduct the monthly installments regularly and in case the same is not done, the applicant would not be responsible for any excess interest (Annexure A2). After completion of deduction of full and final installments of advance amount, the respondents had issued a letter dated 1.2.02 stating that the total amount of interest to be recovered would be Rs.26033/- and its recovery would be made in 30 installments @ Rs.880/- p.m. The applicant submitted a representation dated 15.2.02 and the same is pending. In the meantime, the applicant filed OA No.108/03 which was disposed of by the Tribunal directing the respondents to decide the representation of the applicant by a reasoned and speaking order in 6 weeks (Annexure A4). However, the representation of the applicant was rejected by the respondents. Hence this OA is filed.

3. Heard the learned counsel for the parties. It is argued on behalf of the applicant that the respondents had advanced Rs.60,000/- as HBA vide order dated 7.2.94 and this amount was to be deducted from the salary of the applicant in 60 equal monthly installments at the rate of Rs.1000/- and the rate of interest was 9% and upon completion of deduction of loan amount, deduction of interest would be started and the rate of interest would be 9%. The interest amount was to be deducted in 30 equal monthly installments @ Rs.487/- which meant the interest payable by the applicant comes to Rs.13,710/-. The applicant vide his letter dated 11.11.95 had requested to deduct the monthly installments regularly and in case the same is not done, the applicant would not be responsible for any excess interest (Annexure A2). However, the respondents have shown the total amount of interest as



Rs.26033/- instead of Rs.13710/- for which the applicant has not committed any fault. The applicant is not at all liable to pay the enhanced interest as alleged by the respondents. Hence the OA is liable to be allowed.

4. In reply, the learned counsel for the respondents argued that the applicant has tried to mislead by giving the incorrect facts of the case and without any sound reason filed this OA. As per the sanction clause, the interest recovery payment should be started after 18 months from the date of sanction. During the period of 10/95, 11/95, 7/96 to 10/96 and 4/97 to 8/97 (about 11 months), the wage of the applicant was less than 50% after effecting recovery of HBA i.e. Rs.1000 and further private recovery might have resulted in payment of less than 25% of total earning. And, therefore, in the above mentioned period, the amount of recovery could not be effected as per service rules to avoid undue hardship. The learned counsel further argued that recovery of HBA commenced after 17 months of drawal of advance @ Rs.1000/- i.e. 9/95 and accordingly, no recovery was to be completed in the month of August 2000 but due to above mentioned reason, the recovery was completed in July 2001 after 11. The impugned order passed is just and proper. My attention is drawn to Payment of Wages Act, 1936. According to Section (2) of the said Act, deduction from the wages of an employed person shall be made only in accordance with the provisions of the Act, and may be of the following kinds only, namely (fff) deductions for recovery of loans granted for house building or other purposes approved by the State Government, and the interest due in respect thereof. In Section (3) it is mentioned that the total amount of deductions which may be made under sub section (2) in any wage-period from the wages of any employed person shall not exceed fifty percent of such wages. Hence in view of these provisions, the respondents have passed the impugned order, considering all facts and contentions of the applicant and the provisions of law.

5. After hearing the learned counsel for the parties and carefully perusing the records, I find that initially the respondents have sanctioned Rs.60,000/- as House Building Advance which was to be deducted in 60 equal monthly



installments @ Rs.1000/- at 9% interest. The applicant had requested the respondents to effect recovery regularly from his salary, otherwise, he shall not be liable for enhanced interest. In "Payment of Wages Act, 1936", it is provided that (fff) deductions for recovery of loans granted for house building or other purposes approved by the State Government, and the interest due in respect thereof. In Section (3) (ii), it is mentioned that "Notwithstanding anything contained in this Act, the total amount of deductions which may be made under sub section (2) in any wage period from the wages of any employed person shall not exceed 50% of such wages." The respondents have mentioned in their return that during the period of 10/95, 11/95, 7/96 to 10/96 and 4/97 to 8/97 (about 11 months), the wage of the applicant was less than 50% after effecting recovery of HBA i.e. Rs.1000 and further private recovery might have resulted in payment of less than 25% of total earning. And, therefore, in the above mentioned period, the amount of recovery could not be effected as per service rules to avoid undue hardship. The respondents have cogent reasons as mentioned above and it is supported by the Payment of Wages Act. Hence the respondents have not committed any irregularity in passing the impugned order.

6. After considering the facts and circumstances of the case, I find that the OA has no merit. Accordingly the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

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