

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,  
CIRCUIT COURT SITTING AT GWALIOR

Original Applications No 704 of 2004

~~Indate~~ this the 18<sup>th</sup> day of October, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. Madan Mohan, Judicial Member

Mahendra Mohan Saini, S/o Late Shri Babu Lal  
Saini, Age-about 34 years, Occupation  
Service R/o Madhoganj, Lashkar, Gwalior,  
(M.P.) Applicant

(By Advocate - Shri Dharmendra Nayak for Shri M.P.S.Raghuwanshi)

V E R S U S

1. The Union of India through the Secretary,  
Department of Human Resource, New Delhi.
2. The Central School 1 Shakti Nagar, Gandhi  
Road, Gwalior, (M.P.) Respondents

(By Advocate - Shri Arun Katore)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application, the applicant has sought the following main relief :-

"(i) That, the order Annexure A/1 be quashed."

2. The brief facts of the case as stated by the applicant are that the applicant is a Group 'D' employee and working under the respondent No.2. In the intervening night of 15<sup>th</sup> and 16<sup>th</sup> July, 2001 a computer was stolen from the office of the respondents school. Some queries were asked from the applicant and he duly replied all the queries and on the basis of it an FIR had been lodged against thief. Police has investigated the matter and found no fault on the part of the applicant. However, thereafter the respondents have issued the impugned order



dated 17.7.2002 (Annexure-A-1) by which a recovery of Rs.50604/- has been initiated against the applicant. The applicant had filed a Writ Petition in the Hon'ble High Court against the aforesaid impugned order of recovery. The Hon'ble High Court has stayed the aforesaid recovery and directed the applicant file a fresh petition in the Tribunal. Hence, this OA.

3. Heard the learned counsel for the parties and carefully perused the records.

4. The learned counsel for the applicant has argued that the applicant is not at all responsible for the theft of office computer. As he is a peon and not watchman. The applicant was not given any opportunity of hearing to defend himself and in this matter no enquiry was conducted. He also argued that the alleged matter of theft is still under investigation of police, even then the respondents have not considered this fact and passed the impugned order of recovery dated 17.7.2002. The aforesaid order of recovery is totally illegal and unjustified because the applicant is neither responsible nor he has committed any mistake. Hence, this OA deserves to be allowed.

5. In reply the learned counsel for the respondents has argued that an FIR was lodged but it is not correct to say that there is no fault of the applicant in the aforesaid incident. The applicant was on official duty of Chowkidar during the intervening night of 15<sup>th</sup> and 16<sup>th</sup> July, 2001 of the premises of Kendriya Vidhyalaya No.1. A computer and other accessories amounting to Rs.63254.90/- were stolen and the department has constituted an enquiry committee consisting of Vice Principal of the Institution and other 4 members of the institution. The applicant was given proper opportunity of hearing and it was found that on account of lapses of the applicant, the incident of theft had taken place which has resulted the loss of an amount of Rs.63254.90/-. The responsibility has been fixed to the extent of 80% on the applicant and 20% two other persons. The learned counsel for the respondents




has drawn our attention towards, the Annexure-R-3 in which the applicant has accepted that during the night of 15.7.2001 at 9.10 P.M., he took over the charge from Balli Sahu. Therefore, the applicant was alone responsible for the aforesaid. If he would have sincerely done his duty the aforesaid theft could never take place.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the applicant is a peon and on the same time he was working as Chowkidar in the intervening night of 15<sup>th</sup> and 16<sup>th</sup> July, 2001 and the applicant had taken over the charge from one Balli Shahu at 9.10 p.m. on 15.7.2001. The computer and some other accessories were stolen during the night of 15<sup>th</sup> and 16<sup>th</sup> July, 2001 and on that time the applicant had taken the charge of Chowkidar. We have also perused the Annexure-R-3 in which the applicant has admitted this fact that he had taken the charge of the night duty. The applicant has not controverted this fact by filing any rejoinder. We have also perused the Annexure-R-2 by which the respondents had constituted an enquiry committee to conduct the enquiry comprising of 5 members of the institution and the applicant was given due opportunity of hearing to defend himself. After considering the answer of the applicant the respondents have passed the impugned order of recovery. In this case the principles of natural justice has been followed by the respondents.

7. Considering all the facts and circumstances of the case, we are of the considered opinion that this OA has no merit. Accordingly, the same is dismissed. No costs.

  
(Madan Mohan)  
Judicial Member

  
M.P. Singh)  
Vice Chairman