

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA NO.1817/2016

Order reserved on 22.05.2017
Order pronounced on 31.05.2017

HON'BLE DR BRAHM AVTAR AGRAWAL, MEMBER (J)

Dr. Manoj Srivastava,
Aged about 59 years,
S/o Late Shri D.D. Srivastava,
R/o B-8, Sector-56, Noida, UP.
Currently working as Senior Cotton
Breeder, Punjab Agricultural University,
Previously worked as Registrar,
Protection of Plant Varieties and
Farmers' Rights Authority,
New Delhi-110 012.

...Applicant

(In person)

VERSUS

1. Union of India through
the Secretary,
Ministry of Agriculture,
Krishi Bhawan, New Delhi.
2. Chairperson,
Protection of Plant Varieties and
Farmers' Rights Authority,
S-2, A Block, NASC Complex,
DPS Marg, New Delhi-110 012.
3. Registrar,
Punjab Agricultural University,
Ludhiana.

...Respondents

(By Advocate: Mr. S.M. Zulfiqar Alam for R-1 & Mr. Rajinder
Nischal for R-2)

:ORDER:

This is the second round of litigation by the applicant,
concerning the recovery of an amount of Rs.31,859/- from his

salary of March, 2015 for the loss of the laptop issued to him on 10.08.2010; the loss was caused by its theft on 16.01.2013.

1.2 The applicant's first OA, i.e., the OA No.1504/2015, was disposed of on 12.10.2015 (vide Annexures A-7 and R-5) by the following order:

"The impugned order dated 31.03.2015 (Annexure R- 4) in the instant O.A. relates to recovery of an amount of Rs. 31,859.00/- from the applicant's salary for the loss of the laptop issued to him on 10.08.2010. The main contention of the applicant is that the impugned order was passed without affording him any opportunity of hearing or show cause notice.

2. Learned counsel for the respondents fairly admits that no Show Cause Notice had been issued to the applicant before the order dated 31.03.2015 (Annexure R-4) was passed.

3. In the circumstances, the impugned order is set aside, being in violation of the principles of natural justice. The respondents shall issue a proper show cause notice to the applicant and afford him an opportunity of hearing in the matter and then pass a speaking order.

4. The OA is disposed of accordingly. No order as to costs."

1.3 Followed the impugned order dated 16.02.2016 (Annexures A-9 and R-6) in the instant OA, holding as under:

"Accordingly, I hereby conclude that based on the aforesaid reasonings Dr. Manoj Srivastava is solely and personally responsible for the loss of laptop and the amount of Rs.31,859/- recovered from him is legally in order and consequently the amount need not be refunded to him."

2. I have heard the learned counsel for the parties, perused the pleadings and given my thoughtful consideration to the matter.

3. The main point for consideration is as to whether the matter is governed by the Department of Expenditure's OM dated

19.09.2014 (Annexure A-11) providing for depreciation @ 25% per year, as contended by the applicant, or by the said Department's earlier OM dated 26.05.2009 (brought on record on 22.05.2017) read with the OM dated 14.05.2012 (Annexure A-10) providing for depreciation @ 15% per year, as contended by the learned counsel for the respondent no.2, though relying only on the said Department's OM dated 10.01.2012 (Annexures A-5 and R-3), which relates to desktops and also provides for depreciation @ 15% per year.

4.1 In my view, the matter is neither governed by the OM dated 19.09.2014, as the incident of theft causing the loss in question happened on 16.01.2013, i.e., anterior to the said date of the OM, nor by the OM dated 10.01.2012, as the same does not relate to laptops and there is a definite difference between a laptop and a desktop. The matter would be governed by the OM dated 26.05.2009 read with the OM dated 14.05.2012; the OM dated 26.05.2009, *inter alia*, provides as under:

"The officer who is given the Lap-Top, will be personally responsible for the safety and security of the Lap-Top which will remain Government property and will need to be surrendered at the time of handing over of the charge. In case of loss, the loss will be recovered from the officer based on the book value of the Lap-Top. The officer concerned will be at liberty to have the Lap-Top insured at his personal cost."

4.2 The OM dated 14.05.2012 provides, *inter alia*, as under:

"In case of loss, the loss will be recovered from the officer based on the book value of the laptop after allowing for depreciation of 15% per annum... ."

5. In the light of the above, the conclusion in the impugned order dated 16.02.2016 cannot be faulted and the OA does not deserve to succeed.

6. Therefore, the OA is dismissed. No order as to costs.

(DR BRAHM AVTAR AGRAWAL)
MEMBER (J)

/jk/