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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. No.1054 OF 2003

New Delhi, this the 25th day of September, 2003

HON'BLE SHRI SHANKER RAJU, JUDICIAL MEMBER  
HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Shri Kapil Kumar  
Superintendent  
Vocational Rehabilitation  
Centre of Handicapped,  
Ludhiana,  
Punjab -141 003.

....Applicant

(By Advocate : Shri V.P.S. Tyagi)

Versus

1. Union of India  
Through the Secretary  
Government of India,  
Shram Shakti Bhawan,  
New Delhi-110001.
2. The Director General of  
Employment and Training  
Ministry of Labour,  
Sharam Shakti Bhawan,  
New Delhi-110 001.
3. The Deputy Director General  
(Employment) of Employment and Training,  
Ministry of Labour,  
Sharam Shakti Bhawan,  
New Delhi-110001.
4. The Joint Director Training  
HOO Vocational Rehabilitation,  
Centre for Handicaps  
ATI Campus, Gill Road,  
Ludhiana 141 003.

.....Respondents

(By Advocate : Shri Rajeev Bansal for  
Shri B.K. Aggarwal)

ORDER (ORAL)

SHRI SHANKER RAJU, JUDICIAL MEMBER :-

Applicant impugns respondents orders dated 31.1.2003 and 10.2.2003 whereby his representation against the recoveries with penal interest, which had been ordered, is rejected. Quashing of the above said orders has been sought with all consequential benefits.

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2. The applicant was working as Superintendent at Agartala (Tripura) and was also holding the charge of Head of Office and Drawing and Disbursing Officer (DDO).

3. The disciplinary proceedings has been ordered against the applicant on 16.8.1999 for temporary misappropriation of sum of Rs.84,812/- for about nine days, which is still in progress.

4. By the order dated 29.3.2001, the Last Pay Certificate of the applicant's details along with audit objections and proposal of recovery has been served upon the applicant which pertains to penal payment of embezzlement of amount of Rs.1,05,690/-, i.e., penal interest amounting to Rs.84,812/-, Rs.91,000/- for LTC advance plus penal interest, excess pay and allowances amounting to Rs.98,083/- drawn by him, recovery of telephone bills of Rs.755/-, Rs.1208/- towards OMCA and Rs.9644/- towards less recovery of GPF Subscription. The total sum to be recovered comes to Rs.3,06,380/- with penal interest. The applicant was afforded an opportunity to represent. In pursuance thereof, the applicant preferred a representation on 5.7.2001 giving explanation.

5. As the aforesaid representation was not responded to, the OA NO.1790/2001 was filed by the applicant in this Tribunal and the same was disposed

of by this Tribunal on 2.5.2002 with a direction to the respondents to consider the representation of the applicant and pass a reasoned order till then recovery has been stayed.

6. On meticulous consideration of the contentions put forth by the applicant, a reasoned order was passed whereby the order of recovery has been passed by the respondents on 31.1.2003 giving rise to the present OA.

7. By interim order dated 8.5.2003 in the present OA, further recovery has been stayed.

8. Learned counsel of the applicant, Shri V.P.S. Tyagi, impugns the orders on the ground that in the audit objection as well as in the show-cause notice, the applicant has been shown to be misconducted for which without following due process of law and holding the inquiry, the aforesaid recovery cannot be effected. It is further stated that due notice has not been given to the applicant for the alleged recovery and also the audit report has not been served upon him.

9. On the other hand, respondents' learned counsel has vehemently opposed the contention of the learned counsel of the applicant and stated that detail examination has taken place to all the contentions put forth by the applicant in his

representation and the recovery has been found justifiable on account of general instructions for handling cash<sup>ed</sup> contained in the Rule 77 of the Treasury Rules of the Central Government. The aforesaid order is permissible and according to Shri Rajeev Bansal, appearing for Shri B.K. Aggarwal, the order of recovery is passed in pursuance of the Audit Report and the relevant portion of the same has been provided to the applicant. The decision taken is on the facts and on the basis of the Audit Report and the applicant being DDO has misused his official position for undue gain.

10. We have carefully considered the rival contentions of the parties and perused the material placed on record.

11. The principles of natural justice cannot be placed in a straight jacket, it depends upon the facts and circumstances of each case. The contention put forth that no disciplinary proceedings have been held, the alleged recovery of a Government loss is a kind of minor punishment to an individual as provided under Rule 11 of the CCS (CCA) Rules and as per the procedure, a show-cause notice is to be issued and consideration of reply thereof, the order of recovery can be passed. However, we find that, in the present case, the facts would not cover the applicant, who is liable for recovery, which have been effected including penal interest for misappropriation of the

Govt. money, recovery of excess pay and allowances drawn by him and recovery of less GPF subscription etc. It is also settled position of law that if a Govt. servant is effected with *civil* consequences, he has to be afforded an opportunity of show-cause. From the perusal of the Last Pay Certificate, the relevant portion of the Audit Report and also the detailed representation of the applicant, we are of the opinion that the applicant has been afforded a reasonable opportunity.

12. On perusal of the order passed on the applicant's representation, we find that each contentions of the applicant has been dealt with and disposed of by a reasoned order. As the applicant has been found to have misappropriated the Govt. money and excess pay and allowances paid to him, the Govt. has the right to recover the same. We do not find any illegality and irregularity in the procedure adopted by the respondents. Accordingly, as the principles of natural justice and fair play had been *complied* in the present case, the present OA is bereft of any merit and is accordingly dismissed. Interim order granted on 8.5.2003 is accordingly vacated. No costs.

*ccn 3 7 am*

(R.K. UPADHYAYA)  
ADMINISTRATIVE MEMBER

*S. Raju*

(SHANKER RAJU)  
JUDICIAL MEMBER

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