

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. 2789/2003

New Delhi this the 1st day of September, 2004

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman.
Hon'ble Mr. S.K. Naik, Member (A).**

Harbhajan Singh
S/o Sh. Sunder Singh,
R/o A-983, Gharoli Dairy Farm,
Mayur Vihar, Phase-III,
New Delhi.

... Applicant.

(By Advocate Shri M.K. Bhardwaj)

Versus

The Union of India through

1. The Secretary,
Ministry of Consumer Affairs Food and
Public Distribution,
Department of Consumer Affairs,
Krishi Bhawan, New Delhi.

2. P.A. Krishnamurthy,
Director, Legal Metrology,
Room No. 461A,
Krishi Bhawan, New Delhi.

... Respondents.

(By Advocate Shri Rajeev Bansal)

ORDER (ORAL)

Justice V.S. Aggarwal

The applicant was a Deputy Director while he was posted in Regional Reference Standards Laboratory (RRSL), Ahmedabad. By virtue of the present application, he seeks to assail the order of 22.4.2003 by virtue of which recovery of Rs. 6443/- has been directed to be effected from him for irregular use of official telephone for personal use.

The order is:

“Subject: Irregular use of official telephone for personnel
use by Sh. H.B. Singh – Recovery thereof.

Sir,

The undersigned is directed to draw your attention to Para No. 14 of the audit report of RRSL, Ahmedabad for the year 1999-2000 (Extract enclosed for ready reference) and to convey the approval of the competent authority for

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recovery of Rs.6443/- from Shri H.B. Singh, Deputy Director towards irregular use of official telephone for personnel use during his posting at RRS�, Ahmedabad.

This Department may be informed of the action taken in this regard.

Yours faithfully,
Sd/-
For Director of Legal Metrology".

2. It is unnecessary for this Tribunal to dwell into the other facts because primary questions raised were (a) no show cause notice has been served on the applicant while the impugned order was passed and (b) the impugned order does not consider the reply of the applicant in this regard.

3. Needless to state that in the reply filed the application is being contested. We have considered the relevant submissions.

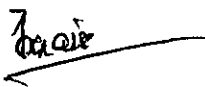
4. So far as the first argument is concerned, we do not dispute that even in such like administrative matter, which affects the civil rights of the other party, a notice to show cause must be served. With the passage of time, the distinction between administrative order and quasi judicial even has become thin. We are not further dwelling into it because in the present case, it was pointed by the learned counsel for the respondents that the explanation of the applicant had been called and the record reveals that the applicant had submitted his explanation pertaining to the said controversy which found its place in certain paragraphs from the audit in the inspection report. Once applicant had submitted his explanation, it is obvious that he was aware of the nature of the controversy and thus, no prejudice would be caused even if no formal show cause notice was served to that extent and, therefore, to contend that a notice to show cause has not been served would not be in the interest of justice because it must be held that there is a substantial compliance of the said principles.


5. However, pertaining to the second limb of the argument put forward by the learned counsel for the respondents, we have no hesitation in holding that the impugned order is liable to be quashed. Reasons are obvious and not too far to fetch. Once the



applicant had submitted his parawise comments, necessarily the concerned authority was required to apply its mind and pass an appropriate speaking order. We have already reproduced the impugned order dated 22.4.2003, which does not consider the pleas raised by the applicant. It simply conveys the approval of the competent authority to recover the amount of Rs.6443/- from the applicant. The pleas of the applicant have neither been rejected nor accepted. It is a non-speaking order. In the peculiar facts and circumstances of the case, it requires to be quashed on this ground. For the same reason, the impugned order of 12.9.2002 cannot be sustained and is liable to be quashed.

6. For these reasons, we quash the impugned orders dated 12.9.2002 and 22.4.2003 and direct that in accordance with law a fresh order, if deemed appropriate, may be passed before effecting any such recovery.


(S.K. Naik)
Member (A)


(V.S. Aggarwal)
Chairman

'SRD'