

(11)

Central Administrative Tribunal, Principal Bench

Original Application No. 2994 of 2003

New Delhi, this the 17th day of May, 2004

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

Shri Surya Kumar,
S/o Shri Kuria,
R/o Servant Quarters No. 48,
Ashoka Road,
New Delhi

....Applicant

(By Advocate: Shri J.R. Sharma, proxy for Shri V.S.R. Krishna)

Versus

Government of National Capital Territory of Delhi

Through:-

1. The Chief Secretary,
Govt. of NCT Delhi
Players Building,
I.P. Estate, New Delhi
2. The Deputy Secretary (Home)
Govt. of NCT Delhi
Players Building,
I.P. Estate, New Delhi
3. The Commandant (Home Guards)
Directorate General of Home Guards &
Civil Defence,
Nishkam Sewa Bhawan,
Raja Garden,
New Delhi-27

....Respondents

(By Advocate: Shri Om Prakash)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant by virtue of the present application seeks to assail the order which reads:

"In pursuance of Dy. Secy Home (G) Govt. of NCT of Delhi order no. 1/107/2003/HG/2607-09 dt. 23.5.2003 conveying the approval of Finance Department Govt. of Delhi. The payment of Rs. 237640/- with interest @ 9% per annum i.e. 237640 + 98878 Intt. (-) 25000/- and 311518/- (Rs. Three Lakhs Eleven Thousand Five Hundred Eighteen only) for making the payment as awarded by the court in suit no. 149/98. Sh. Surya Kumar, Driver vs. Hari Singh including amount of Rs. 25000/- already paid to the petitioner

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is being recovered from the salary of Sh. Surya Kumar @ of Rs.1767/- of this Dte.

The said amount shall be recovered in instalment subject to maximum of 1/3 of the basic pay of the official of the following month and remaining amount will be recovered from the pensionary benefits payable to the official at the time of Superannuation.

This order issue in continuation of this office order no.F.No.MT/29(5)/98/CDHG/Pt. File 26962 Dt. 23.7.2002."

2. Some of the other facts would precipitate the controversy. The applicant was driver of the State vehicle which met with an accident. He caused grievous injuries. The Motor Accident Claims Tribunal held the State as well as the applicant liable and awarded compensation mentioned in the impugned order which we have reproduced above already. Admittedly, the respondents have paid the said amount.

3. By virtue of the impugned order, the respondents seek to recover the same from the applicant because he is stated to be driving the vehicle rashly and negligently. The said order is being assailed primarily on the ground that no show cause notice has been served on the applicant and reference is being made to rule 11 of Central Civil Service (Classification, Control and Appeal) Rules.

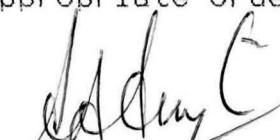
4. Admittedly, notice to show cause has not been served to the applicant. In all fairness, principles of natural justice should have been adhered to.

5. To contend that in the present case notice is not required because it was a proven matter, would not be of much consequence because under rule 11 of CCS (CCA) Rules,



recovery is being made from the pay of the applicant. To do so, it would be proper to give a notice before the recovery is to be effected and the claim of the applicant thereafter should be adjudicated. We do not intend to delve into the merits of the matter.

6. For these reasons, subject to aforesaid, the impugned order is quashed. It is directed that before taking any further action, a notice in accordance with law should be served on the applicant and thereafter an appropriate order may be passed.



(S.A. Singh)
Member(A)



(V.S. Aggarwal)
Chairman

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