

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 040/00361 of 2014

Date of Order: This the      Day of      2016.

**HON'BLE MRS. MANJULA DAS, JUDICIAL MEMBER**

**HON'BLE MOHD HALEEM KHAN, ADMINISTRATIVE MEMBER**

1. Sri Hem Chandra Rajbongshi  
S/o Late Hara Kanta Rajbongshi  
R/O Azara-Bharali Para  
P.O.Azara, Dist-Kamrup(M) Applicant

By Advocate Mr. A.K.Roy,  
-AND-

1. The Union of India  
Represented by the Secretary,  
Department of Post, Govt of India  
New Delhi
2. The Chief Postmaster General  
Assam Circle, Meghdut Bhavan  
Guwahati-781001
3. Director of Postal Services (HQ)  
Assam Circle, Meghdut Bhavan  
Guwahati-781001
4. Sr.Superintendent of Post offices  
Guwahati Division, Guwahati-781001 Respondents

By Advocate Mr.C.Choudhury, Sr.C.G.S.C.

## **ORDER**

**Per Mohd Haleem Khan, Administrative Member:**

Sri Hem Chandra Rajbongshi, Son of Late Hara Kanta Rajbongshi, Resident of Azara-Charali Para, has filed this application under Section 19 of the Administrative Tribunals Act 1985 seeking the following reliefs:-

“8.1 To set aside and quash the order dated 12.08.2009 (Annexure-B1) passed by the Sr.Superintendent of Post Offices, order dated 13.06.2011 (Annexure-C2) passed by the Director of Postal Services and order date 30.09.2013 (Annexure-D2).

(ii) To direct the respondent to return the deducted amount of Rs.1.0 lakh which has been recovered as per the order of appellate authorities.

(ii) To pass any other order or orders as Your Lordships may deem fit and proper.”

2. Briefly the applicant joined service on 02.04.1973 and retired on 31.10.2013. When the applicant was working as postmaster at Bijohnagar, he received memorandum of charges issued by the Senior Superintendent of Post Offices dated 29.05.2008, which according to him was in violation of the Central Civil Services (Classification, Control and Appeal) Rules.1965. He however, submitted

his reply on 11.06.2008 denying the charges. According to the applicant without holding any regular enquiry, the disciplinary authority passed order dated 12.08.2009 reducing his pay by one stage for a period of three years with further direction that during the period of reduction he will not earn increment. The applicant preferred an appeal dated 22.09.2009 before the Director of Postal Services. The appellate authority issued a show cause notice dated 06.07.2010 proposing to revise the punishment upwards and thereby asked to submit representation within a period of ten days. The applicant submitted representation dated 15.07.2010 and requested to allow him to inspect certain documents. The same was allowed by the authority. The applicant submitted representation dated 04.12.2010 against the show cause notice giving details and denied the charges specifically mentioning that he was not entrusted any work relating to Sub-Office Savings Bank (in short SOSB) Ledger Branch. Hence charges levelled against him are baseless. However, the appellate authority passed the order dated 13.06.2011 revising the punishment order of the disciplinary authority upwards and ordered recovery of Rs.1.0 (One) lakh only in forty instalments from his salary on instalment basis commencing from June 2011. The applicant preferred another appeal dated 21.07.2011 to the Chief Postmaster General. But nothing

happened for merely 2 years. Ultimately on 18<sup>th</sup> October 2013 he received the order dated 30.09.2013 whereby the said appellate authority upheld the order dated 13.06.2011 with further direction that if any amount is left for recovery on retirement the same shall be adjusted from the leave encashment due to the applicant on retirement. The applicant's contention is that though the disciplinary authority issued the memorandum of charge under Rule CCS (CCA) Rules 1965 the punishment order has been passed under Rule 11 of CCS(CCA) Rules. The applicant contended that the orders passed by the respondents are legally not sustainable and therefore, the O.A. be allowed with cost.

3. The respondents filed written statement and submitted that whatever is specifically admitted in the written statement or supported by documents, all averments made by the applicant be considered as denied. According to the respondents the charges framed against him are proper and in accordance with the provisions of Rule 16 of CCS CCA) Rules, 1965. The applicant was found guilty of not following Departmental procedures, while working as PA, SOSB Branch, Guwahati GOP. Because of his not working as per guidelines and laid down procedure it has given scope to the SPM, Khetri SO to misappropriate huge amount of Govt. money from SB deposits of the members of

general public. The Respondents further submitted that the applicant was found a subsidiary offender and has been awarded minor punishment. Therefore, holding of a regular enquiry was not required. The respondents specifically submitted that the petitioner has also not demanded a regular enquiry. The respondents further submitted that this is as per the DOPT 's O.M. 11012/18/85-estt.dated 28.10.1985. The respondents also clarified that though the applicant was charged under Rule -16 of CCS (CCA) Rules, 1965 however, he was given minor penalty as per Rule-11 of CCS (CCA) Rules, 1965. The respondents in Para 11 of written statement also controverted the submissions of the applicant in para 5 (iv) of the original Application by submitting that Sub Rule 23(B) of Rule 11 of CCS (CCA) Rules, 1965 provides that penalty of recovery can be awarded in cases where it has been established that the negligence or breach of orders on the part of the Govt. servant has led to the loss to the Department.

4. The respondents also emphasised that the department has suffered a loss Rs. 54, 42, 354/- lakh. The respondents also denied the submission made in para 5 (v) of the original application in regard to violation of Article 14, 16 and 21 of constitution of India and emphasised that the disciplinary authority i.e. The Sr.Superintendent of Post offices, Guwahati Division is fully empowered to issue order of

punishment as per Rule-11 of CCS (CCA) Rules, 1965. Both the disciplinary authority and appellate authority have acted as per Rules, therefore, the O.A. deserves to be dismissed.

5. The applicant have not filed any rejoinder. Accordingly, the case was heard on 04.05.2016. The learned counsel for the applicant made submissions variously on the lines of his contention made in the application. The learned counsel for the respondents however, emphasised that the applicant has been given lesser penalty as he has not specifically been charged for fraud but dereliction of duties. Had the applicant brought to the notice of the superiors, fraud would have been checked in time.

6. The learned counsel also emphasised that the respondents have followed the procedure for imposing minor penalty as laid down in Rule 11 of CCS (CCA) Rules 1965. The applicant has not been able to point out any flaw either with regard to procedure or relating to facts.

7. Keeping in view the submissions of the rival parties, the pleadings and materials placed on record, it has been noted that the plea taken by the applicant is that the memo of charges is not specific.

The same is extracted below:-

**“Statement of imputation of misconduct or misbehaviour set out against Sri Hem Chandra**

**Rajbongshi, the then PA, SO9SB) Guwahati GPO and now working as SPM, Bijoynagar S.O.**

Sri Hem Chandra Rajbongshi, the then PA, SO (SB), Guwahati GPO and now SPM/Bijoynagar SO, while working as PA, SO(SB) in Guwahati GPO for the period from 04.01.200 to 31.07.2003 did not prepare the list of Pass Books although he worked as Ledger PA, which were due receive for posing of interest by June each year and he did not send the list to concerned SDI(P)/ASPOs of the Sub-Divisions for verification violating Rule-74 (3) of PO SB Man.Volume-1. Further, he did not maintain Register of Memo of verification and prepare half-margin Memo. In respect of withdrawals of Rs.2500-5000, took place in Khetri SO in violation of Rule-85 of PO SB Man.Volume-1.

Had Sri Rajbongshi, the charged official, discharged his assigned duties properly as Ledger PA during the above said period, he could have detected and brought the irregularities to the notice of the higher authority in time, averting the Govt. loss to the tune of Rs. 54,42,354/- at Khetri SO in the shape of fraud.

Thus, by the above act, Sri Hem Chandra Rajbongshi, has shown gross negligence and lack of devotion to duty & acted in a manner quite unbecoming of a Govt. servant and thereby violated the provision of Rule-3 (1) (ii) & (iii) of CCS (CCA) Rules, 1964.”

This Court is not able to find anything vague in the charge as framed and produced above. The applicant could not substantiate his

contention that he has been transferred on several places and various works were entrusted on him on different Branches of the GPO during the period. The order of the disciplinary authority dated 12.08.2009 have dealt in detail the issues raised by the applicant in a very objective manner. Therefore, the order of the disciplinary authority does not require intervention of this Court.

8. It was also noted by the Court that against the order of the disciplinary authority the applicant has filed an appeal on 22.09.2009 and the appellate authority before enhancing the punishment as per procedure laid down under Rule 11 of CCS (CCA), Rule 1965 issued a show cause notice. The appellate authority's order is detailed and has gone at length on issues raised by the applicant in his appeal as well as in the reply of the show cause notice dated 04.12.2010. The appellate authority has also taken into account the submissions made by the applicant that he has not worked for the full period from 04.01.2002 to 31.07.2003 as PA (SOSB). The appellate authority has come out with a clear findings that even after factoring this submission made by the applicant the department has lost Rs.1. lakh 70 thousand during his charge and came to the conclusion that because of his lack of being vigilant and not working as per rules the SPM had the opportunity of committing the fraud and the same remaining undetected. In view of



the detailed order of the appellate authority which has addressed various issues raised by the applicant, this Court does not find any opportunity to intervene in the matter.

9. This Court noted that the review addressed to the Chief Postmaster General dated 13.6.2011 has been disposed of by the Chief Postmaster General by a detailed order giving point wise observations and conclusion thereon, and accordingly, revised the order of the appellate authority in view of the fact that the appellate order directs recovery in 40 instalments while the applicant is left with the 28 months before retirement. The operative portion of the review order is as follows:-

**“: Order :**

I, T.Murthy, Chief Postmaster General, Assam Circle, Guwahati and revising authority in this case, revised the appellate order of Sri P.K. Singh,DPS(HQ), Assam Circle, Guwahati issued vide memo No.Staff/9-117/2009 dated 13.06.2011 as below:-

The recovery of Rs.1.0 lakh (rupees one lakh) only in 40 equal instalments @ Rs. 2,500/- each from the pay of Sri Rajbongshi commencing from the pay for the month of June, 2011 would continue @ Rs. 2,500/- per month till the month of his retirement on superannuation i.e Oct’2013 and the residual amount is ordered to be recovered in one instalment from the leave encashment proceeds that would be due to Sri

Hem Ch. Rajbongshi on his retirement on superannuation.”

10. In view of the above observations, this Court does not find any merit in the application. Application accordingly, is dismissed. No order as to costs.

(MOHD HALEEM KHAN)  
ADMINISTRATIVE MEMBER

(MANJULA DAS)  
JUDICIAL MEMBER