

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 317 of 2015

Date of Order: This the 13th Day of November, 2017

**HON'BLE MOHD HALEEM KHAN, ADMINISTRATIVE MEMBER
HON'BLE SHRI S.N.TERDAL, JUDICIAL MEMBER.**

Mrs. Anjana Phukan
W/O Sri Girish Goswami
Resident of Postal Quarters, Tezpur
Post Office and Police Station-Tezpur,
In the District of Sonitpur, Assam-78

By Advocate Mr.U.K.Nair

-Vs-

1. **The Union of India**
Represented by the Secretary,
Department of Posts, Ministry of
Communications and Information Technology
Dak Bhawan, New Delhi-110001.
2. **The Chief Post Master General**
Assam Circle, Meghdoot Bhawan
Pan Bazaar, Guwahati-781001
3. **The Director of Postal Services(HQ)**
Meghdoot Bhawan, Pan Bazaar
Guwahati-781001
4. The Senior Superintendent of Post Offices
Darrang Division, Tezpur
Assam-781335
5. The Superintendent of Post Offices(Disciplinary Authority)
Sibsagar Division, Jorhat
Assam-785001

By Advocate Mr.R.Hazarka, Addl.C.G.S.C.

ORDER (ORAL)**Per Hon'ble Shri S.N.Terdal, Judicial Member:**

This O.A. has been filed praying for the following reliefs:-

- “(a) Set aside and quash the order vide Memo No: Staff/9-231/2015 dated 07.05.2015 (Annexure-N) passed by the Director of Postal Services (HQ) (respondent No.3 herein) whereby the latter as the Appellate Authority has affirmed the extreme punishment of Dismissal issued by the Disciplinary Authority vide its Memo No.FI/A.Phukan/Disc/R-14/2014 dated 12.01.2015.
- (b). Set aside and quash the order of dismissal dated 12.01.2015 passed by the respondents No.4 dismissing the applicant from service.
- (c). Reinstate and grant all service benefits to the applicant.”

2. Heard Mr.U.K.Nair, learned counsel for the Applicant and Mr.R.Hazarika, learned Addl.C.G.S.C. for the Respondents , perused the pleadings and the documents produced by both sides.

3. The brief facts of the case are that the Respondents issued a Memorandum No.FA-9/2011-12 dated 26.07.2013 for holding a Departmental Enquiry under Rule 14 of CCA(CCS) Rules, 1965 on the following 4(four) Article of Charges:-

Article-1

That the said Smti Anjana Phukan while working as SB PA, Amguri S.O. with effect from 11.04.2005 (A/N) to 13-06-2010 did not credit an amount of Rs.2,95,500/- (two lakhs ninety five thousand five hundred) only to the Govt. account against 5(five) SB accounts standing at Amguri SO and thus misappropriated the amount particulars of which are furnished in Article 1 of Annexure II below. By non crediting the aforesaid amount to the Govt. account Smti Anjana Phukan, the then PA, Amguri SO and now PA, Jhanji SO (under suspension) had violated the provision of Rule 4(1) (a) of P&T Financial Handbook Volume I and thus alleged to violate the provisions of Rule 3 (I) (i), 3(I) (ii) and 3 (I) (iii) of CCS (Conduct) Rules 1964.

Article-II

That the said Smti Anjana Phukan while working as SB PA, Amguri SO with effect from 11.04.2005 (A/N) to 13-06-2010 did not credit an amount of Rs.56500/- (fifty six thousand five hundred) only to the Govt. account being the amount accepted in the counter against 5(five) RD accounts standing at Amguri SO and thus misappropriated the amount particulars of which are furnished in Article II of Annexure II below:- By non crediting the aforesaid amount to the Govt. account Smti Anjana Phukan, the then PA Amguri SO and now PA, Jhanji SO (under suspension) had violated the provision of Rule

4(I) (a) of P&T Financial Handbook Volume I as well as Rule 106 of POSB Manual Volume 1 and thus alleged to violate the provisions of Rule 3(1) (i), 3(I) (ii) and 3(I) (iii) of CCS (Conduct) Rules 1964.

Article-III

That the said Smti Anjana Phukan while working as PB PA, Amguri SO with effect from 11.04.2005 (A/N) to 13.06-2010 did not credit an amount of Rs. 197750/(one lakh ninety seven thousand seven hundred fifty) only to the Govt. account being the amount accepted from 6 (six) MPKBY Agents on various dates against 23 (twenty three) Nos. RD Schedules submitted at the counter by the Agents for deposit in the respective RD accounts enlisted the schedules and thus misappropriated the amount particulars of which are furnished in Article III of Annexure II below, By non crediting the aforesaid amount to the Govt. account Smti Anjana Phukan, the then PA Amguri SO and now PA, Jhanji SO (under suspension) had violated the provision of Rule 4 (I) (a) of P&T Financial Handbook Volume 1 and thus alleged to violate the provisions of Rule 3 (I) (i), 3 (I) (ii) and 3(I) (iii) of CCS (Conduct) Rules 1964.

Article IV

That the said Smti Anjana Phukan while working as SB PA, Amguri SO with effect from 11.04.2005 (A/N) to 13.06.2010 issued several SB fresh passbooks in respect of SB accounts

standing at Amguri SO with fake balances without following the procedure laid down in Rule 67(6) of POSB Manual Volume I particulars of which are furnished in Article IV of Annexure II below. Thereby Smto Anjana Phukan, the then PA Amguri SO and now PA, Jhanji SO (under suspension) had violated the provisions of Rule 67 (6) of POSB Manual Volume I and thus alleged to violate the provisions of Rule 3(1)(iii) of CCS (Conduct) Rules 1964.

4. After submission of the representations against the said Memo, the Departmental Enquiry was conducted and Enquiry Officer submitted the Enquiry Report holding that the charges were proved. Subsequently, the Disciplinary Authority after considering the Enquiry Report held that the charges are proved and imposed the punishment of dismissal from service from the date of the order i.e 12.1.2015. The appeal filed by the Applicant was also dismissed by the appellate authority vide Memo No.Staffr/9-231/2015 dated 7.5.2015. On going through the enquiry report it is noticed that 29 supporting documents were relied upon by the Enquiry Officer. But however, they were not brought on record as per the procedure through the deposition any of the prosecution witnesses. The Applicant as a Charged Officer requested for production of some documents. Vide order dated

21.2.2015, the Enquiry officer permitted 2 documents to be requisitioned. But however, subsequently, vide order dated 6.5.2014 it was held that by the Enquiry Officer that those documents have no relevance on the basis that they were not available. Also that 2 defence witnesses were examined by the Enquiry Officer himself instead of allowing or directing the Applicant lead them as defence witnesses. Because of above said procedural lapses on the part of the Enquiry Officer, the Applicant was put to prejudice. In our opinion for the above said procedural lapses the Enquiry Report requires to be set aside. Consequently, the order of the disciplinary authority and the appellate authority are required to be set aside. Accordingly, the order of the disciplinary authority as well as appellate authority stand set aside.

5. For the above said reasons the O.A. is disposed of with the following directions:-

The Respondents are directed to complete the enquiry afresh after giving CO opportunity to examine her own witness. The respondents are also directed to supply the documents requested by CO before concluding the enquiry. The enquiry will be concluded afresh as per law from the stage of service of Charge Memo and its denial by

the Charged Officer. Since the applicant was under suspension at the time of termination of service, her suspension will continue till the date of retirement.

6. No order as to costs.

(S.N.TERDAL)
JUDICIAL MEMBER

(MOHD HALEEM KHAN)
ADMINISTRATIVE MEMBER

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