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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI  
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D.A.No. 2191/90.

Date of decision: 2-1-93

Hon'ble Shri N.V. Krishnan, Vice-Chairman (A)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri R.B. Saxena,  
S/o Shri Raj Bahadur Saxena,  
C/o Shri Sant Lal Advocate,  
C-21(B) New Multan Nagar,  
Delhi-110 056. ... Applicant

(By Advocate Shri Sant Lal)

versus:

1. The Union of India, through  
the Secretary, Ministry of  
Communications, Department  
of Posts, Dak Bhawan,  
New Delhi-110 001.
2. The Member (Personnel),  
Postal Services Board,  
Dak Bhawan, New Delhi-110 001.
3. The Director Postal Services,  
C/o the Chief Postmaster General,  
Delhi Circle Meghdoot Building,  
New Delhi-110 001.
4. The Senior Superintendent of  
Post Offices, Delhi North  
Division, Civil Lines,  
Delhi-110 054. ... Respondents

(By Advocate Shri M.M. Sudan)

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[Hon'ble Smt. Lakshmi Swaminathan, Member (J)]\_7

The applicant is aggrieved by the Memo.

dated 25.3.1988 (Annexure A-1) issued by the Senior

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Superintendent of Post Offices imposing on him the penalty of reduction to lowest stage in the time scale of pay Rs 975-1660 for a period of 1½ years, (2) the Memo. dated 17.8.1988 of the Appellate Authority rejecting his appeal against the penalty order and (3) the order dated 26.4.1990 issued by the Member (Personnel) rejecting his revision petition under Rule 29 of the CCS (CCA) Rules, 1965 (Annexure A-3). The applicant has sought quashing of these orders with consequential benefits.

2. The brief facts of the case are that the applicant was working as Postal Assistant in Mangolpuri, 'N' Block Post Office, Delhi. By order dated 27.8.1983 he was placed under suspension on the ground that disciplinary proceedings are contemplated against him (Ann.7). This order was revoked by the order dated 27.1.1984 (Ann.8). The applicant has again placed under suspension on 16.1.1986 which was revoked on 18.6.87. The applicant has made an averment that the period of suspension has not been decided. The applicant was proceeded against under Rule 14 of the CCS (CCA) Rules, 1965 vide Memo. dt. 16.1.1985 (Annexure A-9). The charge reads as follows:-

\* Shri R.B. Saxena, while functioning as P.A. Mangolpuri 'N' PO during the period May, 1983 to August, 1983 has failed to observe the provisions of rule 254 and 256 of P&T Man. Vol. VI Part I thereby resulting in payment of numerous tampered erased MOs to fictitious firms. M/s National Trading Co. and Prabhat Textiles and causing a heavy pecuniary loss to the department.

And he thereby failed to maintain absolute integrity and devotion to duty as laid down under Rule 3(1)(i) of CCS (Conduct) Rules, 1964.\*

to which the Respondents make a vague statement that it is a matter of record and needs no reply.

The statement of imputation of mis-conduct in support of the articles of charge framed against the applicant is as follows :-

\* That the said Shri P.B. Saxena was functioning as Postal Asstt. Mangolpuri 'N' PO during the period May 1983 to August 1983. It was his duty to receive money orders and to make their entries in the MO-3 register. It was his duty to point out the tampering or erasure in the money orders. It was also his duty to point out that there was no delay in the money orders in the transit. In case of any irregularities he was required to withhold the payments of the money orders and bringing the irregularities to the notice of the Post Master as per rule No. 254 of the P&T Man.Vol.VI Part I. It was his duty to entrust MOs to the concerned postman for payment.

That several money orders including listed in annexure-III were received at Mangolpuri 'N' PO in the name of National Trading Co. and Prabha Textiles. The addressees of actual payees in the said money orders were erased and the addressees of M/s National Trading Co. and M/s Prabha Textiles were substituted in their place. There was also sufficient delay in transit in receiving the money orders at MANGOLPURI 'N' PO. Shri R.B. Saxena did not take any pains to point out the delay of money orders in the transit. His failure to observe the provisions of Rule 254 resulted in payment of several tampered/erased money orders to M/s Prabha Textiles the MOs listed in Annexure III.

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It was his duty to check the money orders after payment. Most of the money orders did not bear the signatures of the Proprietor/Representative of the said firm but bore only initials. Thus he has failed to observe the provisions of Rule No. 265 of P&T Man. Vol. VI Part I.

Shri R.B. Saxena by his above acts exhibited lack of devotion to duty absolute integrity and conduct unbecoming of a Govt. servant thereby violating provisions of Rule 3(1)(i) & (ii) of the CCS (Conduct) Rules, 1964. "

3. The Enquiry Officer, in his report dated 16.9.1987 (Annexure A-4) held the charge as not proved and exonerated the applicant. The disciplinary authority disagreed with the findings of the I.O. and awarded him the penalty of reduction in pay to the lowest stage in the payscale of Rs. 975-1600 by the impugned order dated 25.3.1988.

4. The learned counsel for the applicant has impugned the validity of the penalty order on a number of grounds. We do not consider that it is necessary to deal with all of them and it will be sufficient to refer to the following ground, namely, the fact that the whole charge against the applicant is based on his failure to observe the provisions of Rules 254 and 256 of the P&T Manual Vol. VI Part I. It has been alleged that no evidence was produced to prove that the applicant was posted as Money Order Paid/Postal Assistant and he was required to perform the duties

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he was alleged to have failed, namely, infringement of Rules 254 and 256 of the P&T Manual Vol.VI Part I.

5. The Enquiry Officer has also stated that the applicant was not working as M.O. Paid Clerk in that Post Office and as such he was not responsible for payment of money order at Mangolpuri Post Office during May, 1983 to August, 1983. The Enquiry Officer has also stated that the evidence/<sup>produced</sup> against the applicant was one M.O. Paid voucher which bears his signature in the space meant for "Paid by Me", which signature has not been denied by the applicant. The Enquiry Officer has stated that the applicant has admitted that he has effected the payment of money order on one day only and that too in respect of money orders which have been returned by the paying Postman as unpaid on the instructions of the Sub-Post Master. He has further noted in his report that this plea is supported by Shri Ram Chander, Post Man Witness, in his statement tendered during the course <sup>of enquiry and</sup> is corroborated by <sup>/Inspector Sub DN III</sup> Shri K.C. Gupta, witness. The findings of the enquiry officer based on this evidence is that this does not, in any way, infringe Rule 254 or 256 of the P&T Manual Vol. VI Part I and such payments of money orders are permissible under Rule No. 263 of the P&T Manual Vol.VI Part I. He, therefore, found the charge as not proved.

Rules 254 and 256 of the P&T Manual Volume VI Part I

read as under :-

\* 254. Examination of money orders.-(1) The money order bundles containing money orders intended for payment will be handed over unopened under receipt by the registration clerk to the money order clerk. The money order clerk is required to open each bundle himself and to verify the number of money orders in each bundle with the number noted on the check slip. He will then carefully examine each money order to see :-

- (a) that it is impressed with the prescribed stamps by the office (head or sub) of issue;
- (b) that it is signed by the postmaster and the money order clerk or other authorised officer of the office (head or sub) of issue;
- (c) that it is payable at his office, or at a branch office in direct account with his office, as shown by the payee's address entered by the remitter;
- (d) that the amount of the money order, as written by the office of issue, agrees with the amount as written by the remitter; and
- (e) that the issuing office has punched the money order in the appropriate cage to denote the value as "Not above Rs....."

Note 1. - If a money order has been seriously delayed in transit, care should be taken to see that payment has not already been made on a duplicate money order and the money order concerned is a genuine one.

Note 2. - Likewise on receipt of a duplicate money order issued under rule 298 precautions should be taken to see that the original has not been received and paid in the meantime.

(2) If there is a discrepancy of Rs. 10/- or more between the amounts entered in a money order by the remitter and by the issuing office, or if there is any ground for suspecting fraud, such as the absence of the issuing postmaster's or the money order clerk's signature or of the impressions of any of the prescribed stamps, or an alteration in the name of the payee or the amount or any suspicious delay in its receipt the postmaster's attention should be drawn to the irregularity and

payment should be withheld pending the result of a reference by telegraph to the office of issue. If there is a discrepancy of less than Rs. 10/- between the amounts entered by the remitter and by the issuing office, the amount entered by the remitter should be paid, the irregularity being reported by post in the office of issue. The erroneous entry in the money orders should be corrected under the postmaster's initials.

(3) IN HEAD OFFICES. If a money order which is payable at a sub-office in account with the head office, is received for payment, it should, unless it is a money order which has been redirected to the post office, be treated as misdirected or missent as the case may be. When, however, such a money order has been redirected to the head office, it should be entered in the register of money orders received (Form M.O.3) as laid down in rule 284, and should then be further redirected to the sub-office of payment under the procedure described in rule 283.

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256. Examination by postmaster of money orders for payment. - (1) The money orders, with the money order check slips and the register of money orders received, together with registers of money orders for payment by village postmen and branch offices, should be placed by the money order clerk before the postmaster, who will, after comparing the entries in the money orders and the registers and satisfying himself as to the correctness of all the entries and the genuineness of the money orders, note the total number of money orders for payment on the day (including those taken from deposit) after the last entry in the register and attest the note with his signature. The postmaster should take special care to see that the amount for payment as entered in each order by the office of issue is the same as that specified by the remitter and that the total amount to be given to each postman for the payment of money orders does not exceed the prescribed limit. He should also see that service and Family Allotment money orders issued for the disbursement of pay and allowances and marked as "Not to be delivered before the 1st of the following month" are not given out for payment before the prescribed date.

(2) After this has been done, the postmaster will have the round money order stamp impressed on each money order in his presence in the space provided for the purpose, and the impression of this stamp will

constitute the postmaster's authority for payment. He will then return the money orders and the registers to the money order clerk." (emphasis added )

6. It is clear from Rule 254(2) , particularly the emphasised portion, that it is the duty of the Money Order Clerk to draw the attention of the Post Master to irregularities such as alteration in the name of the Payee. This is to be done when the money orders are examined before the Post Master authorises them for payment. That is done by the Post Master under Rule 256. He has to satisfy himself that the money order is regular in all respects. It is only thereafter that he directs the affixation of the 'round money order stamp' (Rule 256(2)) which is the authority to the postman to make payment. The respondents have no case that the applicant paid the money order where this round money order stamp was not affixed. It is clear from the Enquiry Officer's report that the applicant never functioned as a Money Order Clerk and that he only paid the money order returned to the Post Office by the postman, which means a money order already authorised by the post master for payment by affixing the round money order stamp. The applicant discharged only the duty of a postman, but at the post office. He could have been hauled up only if he paid it to the wrong person. That is not the charge. It relates to non-inspection of the money order at the time of scrutiny and non-discovery of the fact that the payees names have been tampered with. The Enquiry Officer has clearly held that this duty was never assigned



to the applicant. The disciplinary authority has not shown anything to the contrary in his order.

7. It can, therefore, be seen that the violation of Rule 254, which is the basis of the charge, has not been proved against the applicant. The applicant was neither the Money Order Clerk nor the Post Master, but a Postal Assistant. The disciplinary authority has rejected the plea of the charged official that he made the payment of erased and tampered with money order on the direction of the Sub-Post Master on the ground that " he was not a child to act on the direction of others. Furthermore, each and every Postal Assistant has to undergo the prescribed course of training wherein he is supposed to learn the rules and regulations of the department, prior to his regular appointment as Postal Assistant in the department. Shri R.B. Saxena, SPS is not an exceptional to it". In the circumstances, the disciplinary authority held that it was proved beyond doubt that the applicant while functioning as Postal Assistant from May, 1983 to August, 1983 at Mangolpuri 'N' Post Office made the payment of erased and tampered with money orders to certain fictitious firms with some "ulterior motive".

8. Pausing here for a moment, it is clear from the perusal of the articles of charge and the impugned penalty order dated 25.3.1988 passed by the Senior Superintendent of Post Offices that the charge held proved against the applicant for which he was punished was not on the charge that he failed to observe

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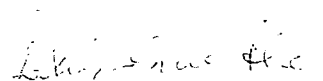
the provisions of Rules 254 and 256 of the P&T Manual Vol.VI Part I but the general duty cast upon a Postal Assistant. If that was so, the chargesheet should have been differently framed and in any case the delinquent official cannot be found guilty of some fault or dereliction of duty for which he has not even been charged and given an opportunity to defend his action. The Respondents' action goes against the CCS(CCA) Rules, 1965, the principles of natural justice and all tenets of fairplay and justice. The action of the Disciplinary authority, appellate authority and revision authority are therefore, unjustified arbitrary and illegal. On this ground alone, the application is entitled to succeed.

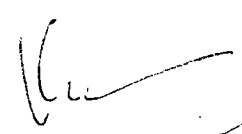
9. While this O.A. was pending, the applicant Shri R.B. Saxena expired on 8.3.1993 and thereafter the legal representatives have been allowed to be brought on record vide order dated 20.5.1993.

10. In the result, the penalty order dated 25.3.1988 is hereby quashed and set aside along with the appellate and revision orders dated 17.8.1988 and 26.4.1990. The respondents are directed to restore the pay of the deceased applicant at the stage he was

getting when the said penalty order dated 25.3.1988 was passed and pay the arrears to the legal heirs. The Respondents have not even cared to file a proper reply to the averments regarding the period of suspension. That is essentially a matter for the disciplinary authority to decide. In view of the above default, we direct that the Respondents shall treat the periods of suspension of the deceased employee as a period spent on duty for all purposes. All dues payable as a result of this order shall be paid to the legal representatives within two months of the receipt of a copy of this order.

10. The application is allowed. No order as to costs.

  
(Smt. Lakshmi Swaminathan)  
Member (J)

  
2/1/85  
(N.V. Krishnan)  
Vice-Chairman (A)