

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH**

(This the 27th day of January, 2010)

Present

Hon'ble Mr. Justice A.K. Yog, Member (J)

Hon'ble Mrs. Manjulika Gautam, Member (A)

Original Application No. 1173 of 2004

(Under Section 19, Administrative Tribunals Act, 1985)

Indra Pal Shukla son of Late Shri Ishwari Pd. Shukla Retd.
S.R.O. R.M.S. 'X' DN Orai Resident of 486, Nanak Ganj Sipri
Bazar, Jhansi-3.

..... Applicant

By Advocates: Shri S.K. Garg
Shri Saurabh.

Versus

1. Union of India through Secretary, Ministry of
Communication Deppt. Of Posts Dak Bhawan, Sansad
Marg, New Delhi-110001.
2. The Director General, Deptt. Of Post, Parliament Street,
New Delhi-110001.
3. Superintendent of Post Offices, Agra Division, Agra.

..... Respondents

By Advocate: Shri R.D. Tiwari, SSC (GOI)

ORDER

(Delivered by: Justice A.K. Yog, Member-J)

Heard learned counsel for the Applicant and the
Respondents. Perused the pleadings and the documents on
record.

[Signature]

2. Briefly stated, applicant, an employee of Respondents (Postal) department, has been subjected to disciplinary enquiry. Without entering into detail, it is suffice to mention that one of the charge relating to manipulating the Stock Register being loss/snatched by outsider, in respect of which one Ram Snehi Lal (colleague of the applicant) has filed First Information Report, which was investigated and then a Criminal Case was instituted. After attaining superannuation the applicant was acquitted, vide Judgment and Order dated 02.08.1997 in Criminal Case by IVth Additional and District Sessions Judge, Jhansi (annexure-4/compilation No. II). The applicant was subjected to disciplinary enquiry. Apart from aforesaid charge of manipulating the Stock Register being snatched by outsider and thus, manipulating attempt of that relevant Register was not available for 'enquiry' against the applicant. Other charges relate to discrepancy/deficiency in the record and the Stock. After disciplinary proceedings were completed, the matter was referred to Union Public Service Commission. Ministry of Communication vide order dated 22.05.2001 (annexure-1/compilation I to the O.A.) held the charges to have been proved.

3. Relevant para of the said order reads: -

"4. The Union Public Service Commission have made available the advice vide their letter No. F.3/269/2000-S.I. dated 4.5.2001 (copy enclosed). In their advice the Commission have after detailed examination of the case come to the conclusion that the charges proved against Shri Inder Pal Shukla constitute grave misconduct



and that the ends of justice would be met if 30% of the monthly pension is forfeited on a permanent basis and an amount of Rs.53,194.80 is recovered from his gratuity. The President considered the advice of the Union Public Service Commission carefully alongwith the records of the case and finds that the charges proved are very grave and fully warrant the action advised by the Commission. The President has, therefore, accepted the advice of the Union Public Service Commission and accordingly hereby orders that 30% of the monthly pension otherwise admissible to Shri Inder Pal Shukla be forfeited and that an amount of Rs.53,194.80 be recovered from the DCRG of Shri Shukla on permanent basis."

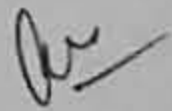
The matter was referred to U.P.S.C. for sanction, which accorded vide order dated 04.05.2001, filed as part of annexure-1 to the O.A.

4. As far as the charge (article 1) referring to the charge of abatement in getting the Stock Register snatched by the outsider, we find that the order of Session Court has not been taken into account, which has recorded categorical finding in rejecting the case of the department. As far as the findings with respect to shortage of stock and loss suffered by the department to the tune of Rs.53,194.80 paisa is concerned, same has been affirmed after considering the relevant material in detail.

Relevant para-10 of the said order of Commission reads: -

"In the light of their findings and after taking into account all aspects relevant to the case the Commission consider that the charges proved against Shri Inder Pal Shukla the CO constitute grave misconduct and the ends of justice would be met if 30% of the monthly pension is forfeited on a permanent basis and an amount of Rs.53,194.80/- is recovered from his gratuity. They advise accordingly."

5. We called upon the Respondents' counsel to show as to whether shortage in Stock Register and the loss caused to the Government was on the charge of 'deliberate/intentional, manipulative acts of the applicant. Respondents' counsel unable



to show anything against the applicant on this score. There is no charge or finding against the applicant that he had deliberately manipulated records so as to cheat or cause loss to the Department, and in turn illegally enrich himself-directly or indirectly.

6. The 'punishment' (awarded to the applicant) is in two parts i.e. recovery of Rs.53,194.80 paisa [for loss suffered by the Government] and to forfeit 30% of the monthly pension on permanent basis.

7. In absence of charge or finding of 'cheating' or 'fraud' and in turn causing loss intentionally to the Government, coupled with the fact that the Applicant has been acquitted by Sessions Court, forfeiture of 30% of pension (on permanent basis)- is arbitrary and with no justification. It amounts to 'double jeopardy' and opposed to 'fair play' and 'good conscience.

8. Accordingly, we set aside impugned order to the extent it provides for punishment of 'forfeiture of 30% of monthly pension on permanent basis' and affirm punishment directing recovery of 'Rs.53,194.80 paisa from gratuity'.

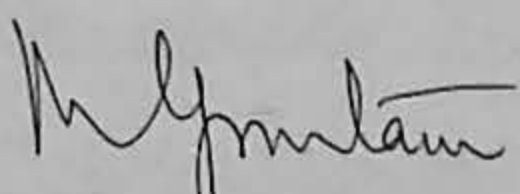
9. Learned counsel for the applicant informs that entire amount of gratuity, which is much more than the amount sought

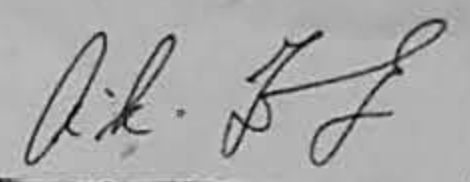


to be recovered/forfeited, has been withheld,. The Respondents are directed to release balance amount of gratuity after forfeiting Rs.53,194.80 paisa and 'arrears of pensions' forthwith but not exceeding two months of receipt of a certified copy of this order. The applicant shall be paid in future full pension (in pursuance to this Order) ignoring impugned order to this extent.

10. O.A. stands partly allowed to the extent indicated above.

No cost.


(Manjulika Gautam)
Member-A


(Justice A.K. Yog)
Member-J

/M.M/