

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

This is the 04th day of August 2021

ORIGINAL APPLICATION NO. 330/00248 of 2021

**HON'BLE MRS. JUSTICE VIJAY LAKSHMI, MEMBER (J)
HON'BLE MR. TARUN SHRIDHAR, MEMBER (A)**

Smt. Bhawana Tiwari aged about 31 years, wife of Shri Shrikant Verma,
Postal Assistant (officiating Sub Post Master) Ujhani Sub Post Office,
Under Superintendent of Post Offices, Budaun R/o C/o Shri Anil Kumar
Verma, Bhanji Tola, Ticketganj, Near Bank of Baroda, Budaun (U.P)
243601

.....Applicant

Advocates for the Applicant : Mr. S.K Kushwaha

VERSUS

1. Union of India through Secretary Ministry of Communication & IT
Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Post Master General Bareilly Region, Bareilly.
3. Director Postal Services, in the office of PMG Bareilly.
4. Superintendent of Post Offices, Budaun Division, Budaun.

Advocate for the Respondents : Mr. Chakrapani Vatsyayan

ORDER

Delivered by Hon'ble Mr. Tarun Shridhar, Member (A)

1. Vide this OA, the applicant seeks the following reliefs:-

“(i) The Hon'ble Tribunal may graciously be pleased to
quash the impugned chargesheet dated 20.05.2020,
impugned punishment order dated 05.08.2020 with

further direction to refund the recovered amount in lieu of punishment order dated 05.08.2020 with 12% interest, with other consequential benefits.

(ii) The Hon'ble Tribunal may further graciously be pleased to issue any other suitable order or direction which this Hon'ble Court finds deem fit and proper.

(iii) Cost in favour of the applicant".

2. In the meanwhile as an interim measure, applicant seeks a direction to the respondents not to make further recovery from the pay of the applicant in lieu of order dated 05.08.2020, otherwise the poor applicant shall suffer an irreparable loss and injury.

3. The brief facts of the case are that the husband of the applicant was alleged to have been involved in a major financial fraud which resulted in a loss of more than a crore of rupees to the Government. The husband of the applicant was posted as Postal Assistant in the respondents' organization where applicant is also posted. The applicant was also chargesheeted under CCS (CCA) Rules for minor penalty proceedings and subsequent to the proceedings, a penalty of recovery of Rs. 9 lakhs from her salary in 16 monthly instalments of Rs. 15,000/- each has been imposed upon her.

4. The charge against her was that she along with her husband and mother-in-law purchased an immovable property for an amount of Rs.

9,14,000/- and had failed to inform her Controlling Authorities about this transaction which is violative of the Conduct Rules. The Disciplinary Authority viewed that had the fact of this transaction come to the notice of the respondents, they would have been able to detect the financial fraud in time and thus prevented huge financial loss to the Government.

5. Learned counsel for the applicant argues that the allegation of financial fraud is against the husband of the applicant in his official capacity. There is no allegation of any financial irregularity or impropriety against the present applicant. Penalising her on account of an alleged misconduct or crime of the husband is patently unfair and cannot be sustained under the law. Moreover, he points out that this penalty of recovery from salary has been imposed without conducting any proper enquiry against her in the matter. He further argues that this property which is jointly purchased with her husband and mother-in-law, has been reflected in the applicant's annual property return and hence the respondents cannot take a plea that information has not been given to them.

6. Learned counsel for the respondents, on the other hand, argues that there is enough evidence of fraud and the fact that the current applicant was in the knowledge of the conduct of her husband and it appears to be a deliberate concealment of the fact that she had invested 9,14,000/- in purchase of immovable property. He argues that since this is

a minor penalty, no detailed enquiry needs to be held and the order passed by the disciplinary authority is well reasoned and speaking order.

7. We have heard the learned counsels of both the sides. At this stage, we would not like to comment at all on the merits of the issues involved nor pass any order with respect of the maintainability of the disciplinary proceedings/chargesheet against the applicant and the penalty imposed. However, we would like to quote the relevant provisions of the CCS (CCA) Rules wherein Rule 11 which mentions the various penalties, states with respect to recovery from the salary as under:-

“Recovery from (his) pay of the whole or part of any pecuniary loss caused by (him) to the Government by negligence or breach of orders”

8. While we find that the disciplinary authority has passed a detailed order which meets all the requirement of being a sound speaking order, prima facie we find that the penalty imposed upon the applicant does not meet the requirements laid down in the CCS (CCA) Rules. The charge against the applicant is her failure to meet the obligation of prior intimation/approval for purchase of immovable property. Whether she was the obliged to do so is a matter which still needs to be deliberated upon. However, relating this failure to the pecuniary loss of crores of rupees and terming it as breach of trust or negligence leading to loss of crores appears far-fetched. While these issues will be decided on merits

while hearing this O.A., we prima facie feel that the charge against the applicant, even if proved, does not meet the requirement of the penalty of recovery from pay. Hence, there is substantial ground to provide interim relief to the applicant by way of restraining the respondents from making any further recovery pursuant to the order dated 5.8.2020.

9. Accordingly, the prayer for interim relief is allowed and the respondents are directed not to make any further recovery from the pay of the applicant pursuant to the order passed by them in the disciplinary proceedings on 5.8.2020 till the disposal of this OA. We make it clear that nothing in this order is to be construed as an opinion on the merits of the case.

10. **Admit.** Issue notice to the respondents.

11. As Shri Chakrapani Vatsyayan, who is representing the official respondents, has already appeared on advance notice, there is no need to issue fresh notice to the official respondents.

12. Let the detailed counter affidavit be filed within six weeks. Rejoinder, if any, be filed within two weeks thereafter.

13. List this case on 29.09.2021.

(TARUN SHRIDHAR)
Member (A)

(JUSTICE VIJAY LAKSHMI)
Member (J)

Manish/-