

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/00455/2015

Date of CAV : 05.07.2021

Date of Pronouncement : 09.07.2021



Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

K.Chandan Kumar S/o Sri Narsiah,
Aged about 25 years, working as Postal Assistant,
Station Kachiguda Head Post Office,
Hyderabad South East Division, Hyderabad-500 002. ...Applicant

(By Advocate : Mr. S. Ramakrishna Rao)

Vs.

1.The Union of India, rep by
The Director General, Posts,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi-110001.

2.The Chief Postmaster General,
A.P.Circle, Hyderabad - 500 001.

3. The Director of Postal Services,
O/o The Chief Postmaster General,
A.P.Circle, Hyderabad-500 001.

4.The Senior Superintendent of Post Offices,
Hyderabad South East Division,
Hyderabad-500 002.

5.The Postmaster, Station Kachiguda
Head Post Office, Hyderabad-500 027.Respondents

(By Advocate : Mr. Paravastu Krishna, Addl.CGSC)

ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The O.A. is filed in regard to imposition of penalty of recovery of an amount of Rs.25,626/- and withholding of next increment for a period of two years, on the applicant by the respondents vide Memo dated 30.01.2015.

3. The brief facts of the case are that the applicant while working as Postal Assistant in the respondents organization was directed by the Deputy Post Master to work in the Savings Bank and Senior Citizen Savings Scheme (for short SCSS) Counter on Over Time Allowance basis. The applicant while working as ordered, serviced the accounts of senior citizens bearing the Nos.428, 461 & 462. The said account holders lodged a complaint on 21.10.2013 stating that the interest due to them for certain periods has not been paid by the applicant. Based on the complaint, respondents issued Memo dated 6.8.2014 to the applicant, directing him to credit an amount of Rs.24,750/- towards non-payment of SCSS interest. In response, the applicant has made a representation dated 18.8.2014, stating that he has not committed any irregularity and paid the amount of interest to the actual depositors concerned correctly. However, the Disciplinary Authority vide Memo dated 30.01.2015 has imposed the penalty of recovery of an amount of Rs.25,626/- and withholding of next increment for a period of two years on the applicant.

Aggrieved over the same and for not conceding to his request to hold inquiry under Rule 16 (1)(b) of CCS (CCA) Rules 1965, the O.A. has been filed.



4. The contentions of the applicant are that he has paid the interest amount due to the complainants correctly and he has not committed any irregularity. The request made by the applicant for inquiry under Rule 16 (1)(b) of CCS (CCA) Rules 1965 has been denied and, therefore, reasonable opportunity to defend himself has not been provided. The applicant preferred an appeal on 14.03.2015 against the penalty order dated 30.01.2015, which is yet to be disposed.

5. The respondents in their reply submit that the senior citizens namely Smt. Meena Bhide & Sri M.Y. Bhide have complained on 21.10.2013 stating that the applicant while working as Counter Clerk has made entries in their pass books indicating that an amount of Rs.11,250/- has been withdrawn from each account and when asked to show the relevant withdrawal forms, the same have not been shown by the applicant. The respondents claim that the complainants denied that the signatures on the warrant of payment belong to them. Consequently, the assistance of Central Forensic Lab was sought who have confirmed that the signatures on the warrant of payment are not that of the complainants. Keeping in view the lapses committed by the applicant in processing the payment of interest and the complaints made by the depositors, Rule 16 charge sheet was issued and penalty of recovery of

Rs.25,626/- along with stoppage of one increment for a period of two years without cumulative effect was imposed vide order dated 30.01.2015. The respondents claim that they acted as per rules.



6. Learned counsel for the respondents is absent and there is no representation on behalf of the applicant. The case belongs to the year 2015 and earlier also there was no representation for the applicant on 18.4.2016, 14.6.2016, 5.12.2016 & 5.1.2017. As the pleadings are complete, we have decided to adjudicate the dispute based on the documentary evidence.

7 (I) The dispute is about the penalty imposed on the applicant consequent to the complaint filed by two SCSS depositors against him. The basis of the complaint made by Smt.& Sri Bhide, who are Senior Citizen Savings Scheme Account holders is that the applicant has not paid interest due to them on 22.8.2013. We have gone through the facts of the case and it is seen from the details that the applicant avers that he has made entries in the old pass book tendered by the complainants, which stand as proof that the interest due to them was paid. Smt & Sri Bhide complained that the signatures on the warrant of payment do not belong to them. Consequently, the matter was referred to the Central Forensic Lab to verify whether the signatures on the warrant of payment were genuine and belong to the depositors. The Central Forensic Lab has confirmed vide their letter dated 19.02.2014 that the signatures on the warrant of payment do not tally with the specimen signatures of the depositors available with the respondents. The respondents taking into



cognizance the above fact as well as the lapses committed by the applicant namely: not verifying the signatures of the account holders before recommending for payment, failing to transfer the pass books of the depositors along with the specimen signatures to the Supervisor for verification in respect of withdrawals of the value greater than Rs.5000/-, making entries dated 22.8.2013 in the old pass book instead of directing the depositors to submit the new pass book, have initiated disciplinary action under rule 16 of CCS (CCA) rules 1965. Applicant has admitted the lapses vide his statement dated 17.6.2014, annexed as R-5 to the reply. However, applicant has been submitting to the respondents, that he has paid the amount to the depositors and, therefore, sought inquiry under Rule 16(1)(b) of CCS (CCA) Rules, 1965, to get to the truth.. The respondents claim that the applicant has admitted the lapses vide annexure R-5 and, therefore, they have disagreed to hold the inquiry as requested by the applicant.

(II) We have gone through the Annexure R-5 and found that the applicant has only admitted the procedural lapses but he did not admit that he was involved in any fraudulent transaction. When the rules do provide for conducting inquiry under Rule 16(1)(b) of CCS (CCA) Rules in situations of the type in question, the respondents could have allowed the applicant to defend himself in an open inquiry and thereafter they could have decided about the penalty. By not conducting inquiry under Rule 16(1)(b), the principles of natural justice have been violated. Nevertheless, since the applicant has not followed the rules in allowing



the withdrawals, he is also responsible for making the payments, which are questionable. The respondents have imposed the penalty of recovery of Rs.25,626/- in three instalments @ Rs.8,542/- p.m. from February, 2015 and also withheld one increment due to the applicant for two years without cumulative effect w.e.f.1.7.2015 vide their order dated 30.01.2015. This Tribunal, while hearing the case in the initial stage, issued an interim order dated 30.04.2015 staying the recovery. As discussed above, the applicant was not given a fair opportunity to defend himself by ordering inquiry under Rule 16(1)(b) which is provided under the rules. The respondents have cited the judgement of the Hon'ble Supreme Court in the case of *Parmanand vs State of Haryana & Others 1989 (2) SCC 177* wherein it was observed that the Courts/ Tribunals generally should not intervene in disciplinary cases unless procedures are violated or law has not been followed. . The said judgement may not apply to the instant case because the respondents have not followed the principles of natural justice by not acceding to the request of the applicant for conducting inquiry under Rule 16(1)(b). The Tribunal usually does not interfere in disciplinary cases but when the order of the respondents is arbitrary and is not in accordance with the rules/law then the Tribunal has to intervene to uphold justice. Consequently, the judgement cited by the respondents would not come to their rescue. We also observe that the appeal submitted by the applicant on 14.3.2015 was rejected on 9.7.2015.

(III) Keeping the above in view, we are of the opinion that ends of justice would be met by making the interim order passed on 30.04.2015

in regard to stoppage of recovery as absolute. The second part of the penalty i.e. stoppage of increment of the applicant vide Memo dated 30.01.2015 is not interfered with for the reasons enumerated above. While observing as at above, we grant liberty to the respondents to proceed against the applicant on disciplinary grounds, if they so desire in regard to recovery keeping in view the passage of time from the date of imposing the penalty; by ordering inquiry under Rule 16(1)(b) so that a fair opportunity is given to the applicant to defend himself as per the principles of natural justice as well as in accordance with rules/law.



IV. With the above direction, the O.A.is disposed of with no orders as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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