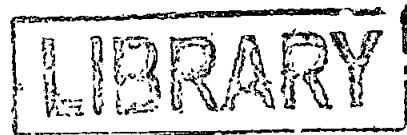


CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

(Through Audio/Video Conference)



O.A. 350/690/2021

Date of Order: 7.9.21

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Prasanta MondalApplicant

Vrs.

Union of India & Ors.Respondents

For the Applicant(s): Mr. B.R.Das & Mr. O.Chatterjee, Counsel

For the Respondent(s): None

ORDER (CAV on Interim Prayer)Bidisha Banerjee, Member (J):

This application has been preferred to seek the following reliefs:

"I. An order quashing and/or setting aside the chargememo dated 23.11.2016 (Annexure-A3) and proceedings held thereunder.

"II. An order quashing and/or setting aside the order of punishment/order of the Disciplinary Authority dated 14.03.2019 (Annexure-A2) and the order of the Appellate

Authority dated 15.02.2021 a served upon the applicant on 22.02.2021 (Annexure-A1).

III. An order directing the Respondents to grant all consequential benefits to the applicant including refund of the amount recovered from the salary of the applicant in view of the penalty imposed by the Disciplinary Authority which is upheld by the Appellate Authority.

IV. Direct the Respondent to treat the suspension period as spent on duty and pay the arrears, consider the due promotion which was not granted in due time for punishment.

V. Certify and transmit the entire records and papers pertaining to the applicant's case so that after the causes shown thereof concessionable justice may be done unto the applicant by way of grant of reliefs as prayed for in (i) and (iv) above.

VI. Any further order/orders and/or direction or directions as to your Lordships may seem fit and proper."

Pending final decision in the matter, the applicant has prayed for the following interim relief:

"An ad-interim order restraining the respondents from giving any effect to and/or acting in furtherance of the order A1 & A2 in so far as it concerns the petitioner till the disposal of Original Application."

2. The gravamen of indictments against the applicant is that, the applicant while working as PA, Bhabla SO, made entries of deposit dated 11.12.2013, 15.01.2014 and 12.01.2015 for Rs. 1000/- each with balance after transaction

in the ledger of Bhabla SO RD Account No. 464062863 in the name of Smt. Madhuri Nath opened through Smt. Mitra Das, MPKBY agent. But, he did not make sure that the balance noted in the said MPKBY agent's schedule tallied with that in the concerned ledger in violation of provision of Rule 106 read with Rule 31(3)(iv) of POSB Manual Volume-I and thus, he violated Rules 3(1)(i), 3(1)(ii) and 3(1)(iii) of CCS (Conduct) Rules, 1964.

3. The applicant was penalized vide order dated 14.03.2019 (Annexure-2) in the following manner:

"I Sri Debasis Chatterjee, Superintendent of Post Offices, Barasat Division, Kolkata-700124, in exercising the power conferred upon me vide Rule-12(2) of CCS(CCA) Rules, 1965 hereby order that the pay of Sri Prasanta Kumar Mondal, PA, Bhabla SO (Under suspension), be reduced to one stage of time scale of pay matrix level-4 for a period of 1 (One) year which shall be a bar to the promotion of Sri Prasanta Kumar Mondal, during the said period and on expiry of the said period, the period of reduction shall operate to postpone future increments of his pay to the extent of 1(One) year along with recovery of Rs. 9,00,000.00 (Nine lakhs) only from the pay of Sri Prasanta Kumar Mondal in 60 (Sixty) equal monthly installments with immediate effect. The entire period of suspension of Sri Prasanta Kumar Mondal will be treated as non-duty for all purpose."

4. The Appellate Authority found that the applicant was not vigilant at all while performing his duty of entering the deposit amounts in the RD ledger for

Account No. 464062863 which led to the misappropriation which could have been detected at a much earlier stage minimizing Government loss if the provisions of Rule 106 and Rule 31(3)(iv) of POSB Manual Volume-I were followed scrupulously.



The Appellate Authority, vide his order dated 15.02.2021 (Annexure-A/1) confirmed the penalty as the fraud in RD Account No. 464062863 commenced in February 2011 and remained undetected when he was not posted in Bhabla PO and his assistance in back office work has been judged as duty as a regular full-fledged SBPA requiring compliance of Rule 106 and 3(3)(iv) of POSB Manual Volume I.

5. The applicant had pleaded that he did not work as SBPA, Bhabla SO, so compliance of Rule 106 and Rule 31(3)(iv) of POSB Manual Volume-I by him as SBPA does not arise. And that, if all the responsibility of making irregular entries in RD ledger for 11.12.2013, 15.01.2014 and 12.01.2015 for Rs. 3000/- (i.e. Rs. 1000/- X 3) is taken into account, then also his pecuniary liability should not exceed Rs. 3000/-, but he has been awarded punishment of recovery of Rs. 9 lakh without any logic, rhyme or reason.

6. Ld. Counsel for the applicant would vociferously submit that such

penalty of reduction in pay and recovery amounts to double jeopardy.

7. Since the Ld. Counsel for the respondent, despite a previous order dated 05.05.2021, has failed to justify the recovery with reduction in pay and the balance of convenience is heavily tilted in favour of the applicant, the penalty order dated 14.03.2019 is stayed till the next date of listing.

8. List the matter on 08.11.2021 for completion of pleadings. Four weeks time is granted for filing reply and two weeks thereafter for rejoinder, if any.

(Dr. Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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