

(Judgment
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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

ORIGINAL APPLICATION NO.248 of 1986.

Amla Presad

.... Applicant.

Versus

Union of India and another

..... Respondents.

Hon'ble D.S.Misra-AM
Hon'ble G.S.Sharma-JM

(Delivered by Hon'ble D.S.Misra)

This is an application under section 19 of the Administrative Tribunals Act against an order imposing punishment, or recovery of Rs.5040/- passed by the Senior Superintendent of Post Offices, Allahabad Division, Allahabad. The Departmental Appeal preferred against this order was also rejected by the Director Postal Services, Allahabad on 4.12.1985.

2. The applicant's case is that on 3.10.1981 while he was working as Sub Post Master, Pursottam Nagar Post Office, Allahabad at about 3 P.M., three criminals suddenly entered the one-room post office, closed the door from inside, threatened the applicant and the packer with open knife and robbed cash amounting to Rs.5040/- under the threat of causing death by putting a pistol on the chest of the applicant. Criminals left the post office and moved away on cycles. The applicant lodged a report with the police and also informed the higher authority. The applicant has alleged that no safe or lock was provided to him and he had to keep the cash-proceeds in the drawer of the table. The Senior Superintendent of Post Offices, Allahabad issued a Memo dt. 9.11.1982 under Rule 16 CCS (CSA) Rules for the recovery of Rs.5040/- from the applicant on the charge that the cash was not locked in the drawer. The applicant explained the circumstances of this robbery committed under instant fear of death to the applicant and packer but it did not

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prevail upon the Senior Superintendent of Post Offices, Allahabad (respondent no.3), who ordered for the recovery of Rs.5040/- by his order dated 30.12.1983. The applicant had served for more than 10 years and had an unblemished record of service. He denied that he was at fault for the loss of government money and asserted that he had taken all possible precautions in the performance of his duty.

3. In the counter-affidavit filed by the respondents, it is stated that the applicant should have preferred a revision to the Administrative Member Post and Telegraph Board and therefore, the application was barred by Section 20 of the ATAct. It is also alleged that the applicant did not keep the amount of Rs.5040/- locked in the drawer and the drawer was kept open. The applicant was expected to keep the amount secured by putting lock, available for the purpose and thus he showed negligence and lack of devotion to duty contravening the provisions of Rule 3(i)(ii) of CCS Conduct Rules, 1964. It is further asserted that the applicant had not given any satisfactory explanation as to why the amount kept in the drawer was not locked and the drawer was kept open thereby exposing the contents of the drawer.

4. Rejoinder-affidavit was filed by the applicant, in which it was stated that there was no involvement of legal points in his case and the rejection of his appeal by the Director Postal Services had become final and the application was fully maintainable. It was also alleged that the applicant took utmost care and precaution for the safe custody of the government money. The Post Office of Pursottam Nagar has only one room with one common entry to the customers to come to the counter, and for the staff to go inside the counter. The cash worth Rs.5040/- was in the process of being counted and kept in the drawer when it was looted at the point of pistol, put against his chest. It is further asserted that even if the drawer had been locked, the culprits could have opened the lock and taken away the money. The applicant asserted that the

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robbery was beyond his control and he should not be held responsible for it.

5. We have heard the arguments of both the parties. The applicant was chargesheeted under sub-clauses (i) (ii) of Rule 3(1) of the CCS Conduct Rules, 1964 which are reproduced below;

- 3(1)- Every government servant shall at all time, (i) maintain absolute integrity;
(ii) maintain devotion to duty.

It is relevant to mention that the applicant was chargesheeted for contravening the above mentioned provisions of the CCS Conduct Rules 1964. On a specific query made by us, learned counsel for the respondents failed to bring to our notice any provision or rule of the post and Telegraph Department regarding steps to be taken for safe custody of cash in a Sub Post Office. It is not the case of the respondent that any cash, box or Safe was provided to the applicant for safe custody of cash, received by him. According to the applicant this cash was to be deposited in the Head Post Office and he was in the process of counting this money for taking it to the Head Post Office. The alleged robbery took place at 3 P.M.. The contention of the applicant, that a robbery took place, is not denied by the respondents, who have held the applicant responsible for the loss of money. We have considered the whole circumstances in which robbery took place and are of the opinion that in the prevailing situation, the conduct of the applicant can not be considered violative of either sub clause (i) or (ii) of Rule 3 of CCS Conduct Rules. There is no allegation about the integrity of the applicant and therefore, the charge under sub clause (i) is not established at all against him. The second charge under sub clause (ii) is also not established as the applicant could not have saved the loss of money even by losing his life. Both, the disciplinary authority and the appellate authority, appear to have failed to appreciate that the danger to ones' life, ^{be} which is an experience in itself and can not be adequately described. The individual ^{be} subjected to the threat of his life could act differently.

We are, therefore, of the opinion that the conclusion drawn by the disciplinary authority and upheld by the appellate authority, is not correct. The applicant is a low paid employee, who had rendered 10 years satisfactory service and the deduction of Rs.140/- p.m. from his meagre salary without his any fault would cause undue hardship to him(the applicant).

6. For the reasons mentioned-above, we are of the opinion that the order of Punishment passed against the applicant should be quashed. We accordingly quash the same and further direct that the recoveries already made under the impugned orders be refunded to him and direct the parties to bear their own costs.

SPme
9.11.86.

Member-A

Sharma
9/12/86

Member-J

JSingh/ 9.12.1986.