

Open Court

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: Allahabad this the 28th Day of October 1999.

Coram:- Hon'ble Mr. S. Dayal, A.M.
Hon'ble Mr. Rafiq Uddin, D.M.

Transfer App. No.538/87 in O.S. 532/85.

Ram Sakal Yadav
son of Sri Ram Deva Yadav,
resident of village Bhore Mau, Tappa Didarganj,
Pargana Mahul,
Tahsil Phulpur,
Distt. Azamgarh.

... Plaintiff.

(Through Sri Avvind Kumar, Adv.)

Versus

1. The Union of India through the Secretary, Ministry of Communication, Government of India, New Delhi.
2. The Senior Superintendent of Post Offices, Azamgarh Division, Azamgarh.

... Respondents.

(Through Sri N.B. Singh, Adv.)

Order (Open Court)

By Hon'ble Mr. S. Dayal, Member (A.)

This application is a transferred application which was initially a Civil Suit filed in the Court of Munsif Haweli at Azamgarh. The suit was filed for declaration of order of S.S.P. Azamgarh dated 30.4.81 putting off the applicant on duty to be illegal ~~ultravires~~ malafide and passed without justification and direct the respondents

to pay full pay and allowances with 16% interest from 22.6.81 to August 1984 and set aside the order of recovery of Rs.2,317-74 Paise only.

2. The facts mentioned are that the applicant was working as Branch Post Master Bhore-Mau. A dacoity occurred at the house of the applicant on 12.2.80 in which personal assets, valuables and a few insured articles and Government cash amounting to Rs.2317-74 Paise was looted. It was reported and registered as Crime No. 23/1980 in the police station. It is stated that the investigation was completed and actual culprits have been challaned for court trial. The applicant was suspended by the S.S.P.O. by order dated 30.4.81. A memo of charges was served on the applicant on 15.6.83 and order of recovery was passed for recovering Rs.2,317-74 Paise on 22.8.84.

3. The respondents have filed their counter reply in which they have stated that the theft took place on the night of 12/13.2.80 at Bhore-Mau branch Post Office. The applicant was the regular extra departmental branch Post Master and was on leave from 1.1.80 to 29.2.80 and his substitute Sri Kanchan Yadav was working on his risk and responsibilities. The applicant was requested to credit the loss sustained by the department which consisted of five insured articles amounting to Rs.2100/- and Government cash of Rs.217-74 from branch post office. The applicant by his letter dated 1.4.81 refused the credit loss and therefore he was ordered to be put off duty by memo dated 30.4.81. Departmental proceedings

were initiated against him and the applicant is said to have admitted his fault on the first day of hearing and gave in writing his willingness that either the amount of loss may be recovered from his pay in easy instalments or he may be allowed to credit the whole amount in a lumpsum. On admission of the applicant the enquiry officer submitted his findings on 29.7.84 and the disciplinary authority passed an order for recovery of the loss of Rs.2,317-74 Paise in easy instalments of Rs. 100/- from his allowances. The applicant on representation to higher authorities was put back on duty by order dated 24.8.84.

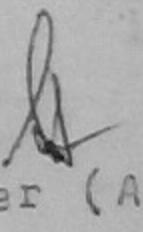
4. No rejoinder has been filed on behalf of the applicant to the averments made in the counter reply of the respondents.

5. It is clear from the narration of the facts that the applicant had admitted that there was a lapse on his part. However, the facts suggest that the action taken for putting off the applicant is not in consonance with rule 9 of E.D.A. Conduct and Service Rules. The rule authorises an E.D. employee to be put off duty pending an enquiry into complaint or allegation of misconduct against an employee. The mere fact that the theft took place in the house of the applicant and part of Government property and cash was looted from the house when the applicant was on leave, does not suggest that there was a case for putting off the applicant on the ground that an enquiry was pending against him. This is more so because in the

case of dacoity the police have investigated into the offence and have chargesheeted the culprits in that case and there is no whisper that the applicant was in any way responsible. The only ground shown in the chargesheet is that adequate precautions for security were not taken which resulted in dacoity. Therefore, we find that the order putting off the applicant is not sustainable.

As far as the order regarding recovery of government cash and valuables amounting to Rs.2,317/-74 paisa is concerned the order for recovery of the amount can not be faulted because a substitute was working at the risk and responsibility of the applicant. We, therefore, hold that the order putting off the applicant from duty was unjustified. The respondents are directed to make payment of the emoluments due to the applicant for the period he was treated as put off from duty. This shall be complied with in three months time. There shall be no order as to costs.


Member (J.)


Member (A.)

Nafees.