

APR 1987

(5)

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.180 of 1987

Dan Bahadur Singh Applicant

Versus

Post Master General, U.P.Circle
Lucknow and Others. Respondents.

Hon.S.Zaheer Hasan, V.C.

Hon.Ajay Johri, A.M.

(By Hon.S.Zaheer Hasan, V.C.)

This is an application under Section 19
of the Administrative Tribunals Act XIII of 1985.

2. In March/April, 1983 Dan Bahadur Singh, Postal Assistant, the applicant, S.C. Shukla, Postal Assistant, Vibhakar Tripathi, Counter Clerk, M.S.Nayyar, Asstt. Postmaster and M.N.Chakravarty were working at Allahabad Kutcheri Post Office. Account No. 816297 with balance of Rs. 2,200/- standing in the name of Smt. Jhupa Devi was transferred from Pithoragarh to Allahabad Kutcheri Post Office on 8.3.83. The account was opened at Allahabad Post Office on 27.3.83. It was checked by M.N.Chakravarty, A.P.M.(SB) with AT,SB 10(b) and Pass Book. The original application for opening of account was not received with the advice. The SB 10(b) was lost at Allahabad Kutcheri Post Office after the opening of the account. The Pass Book was delivered

6
PZ
X

- 2 -

to the depositor without obtaining any receipt. On 26.4.83 two withdrawals (Rs. 2350 + Rs.243/-) including interest were made and the account was closed. One Anoop Kumar Mishra, National Savings Agent No.62 identified the lady which was accepted by M.S.Nayyar, A.P.M. Within the same month, it was discovered that it was a fraudulent withdrawal. On 24.5.85 the following charge memo was given to the applicant Dan Bahadur Singh :-

" While working as Ledger clerk I at Allahabad Kty. HO during July, 1982 to 23.6.83 Shri Dan Bahadur Singh opened Dewalthal (Pithoragarh), 5 year TD account No.816297 received on transfer, under Allahabad Kty. HO 5 year TDA/C No.3058679 on 27.3.83. The SB-3 of the said account was not received with A.T. Shri Dan Bahadur Singh did not prepare it by cutting out the T.I. of the depositor available in SB 10(b). He also did not file the application for transfer (SB-10(b) with the office copy of the relevant transfer journal and thus contravened the provision of Rule 441 of P & T Manual, Vol.VI, Part-II. After opening the account, he transferred the P.B. to Shri Vibhakar Tripathi SB counter clerk, Allahabad Kutcheri HO for delivery to the depositor but neither he obtained any receipt from the S.B.C. nor ensured to have obtained any receipt from the depositor at the time of delivery and thus he failed to comply with requirement of rule 409/411 of P & T Manual Vol.VI, Part-II. This non observance of correct procedure by Shri Dan Bahadur Singh facilitated the loss of SB 10(b) and fraudulent closure of the said account causing loss of Rs.2593/- to the Govt.

M
Thus Shri Dan Bahadur Singh who did

not observe the procedure contained in Rule 409, 411 and 441 of P & T Manual Vol.VI, Part-II failed to maintain absolute devotion to duty as required under Rule 3(1)(ii) of CCS(Conduct) Rules, 1964."

On 24.12.85 he submitted an explanation explaining the whole thing^s and denied the charges. On 25.3.86 the Senior Superintendent of Post Offices held that the charges were made out and ordered that a sum of Rs.600/- be recovered from the pay of the applicant Dan Bahadur Singh in 20 instalments of Rs. 30/- each. Aggrieved by this order the applicant filed an appeal which was dismissed by the Director Postal Services on 3.11.1986. Thereafter the present application under Section 19 of the Administrative Tribunals Act was moved.

3. The applicant's contention is that there is no evidence to prove that there was any conspiracy and the applicant knew that it was a fraudulent withdrawal. It is further contended that from the alleged omissions it cannot be inferred that he facilitated the false withdrawal. He was appointed on 25.1.1969 as Postal Assistant. He ~~has~~ completed sixteen years of service as on 25.1.1985. So he should have been given time bound promotion in the next higher scale and since the authorities were wrongly informed that departmental proceedings were pending against the applicant so this time bound promotion was given to him from 26.3.86 and not from 25.1.1985. The order of punishment is dated 25.3.1986 and as such he was given promotion from 26.3.86. According to the applicant he should have been

(8)

given promotion from 25.1.1985 since no departmental proceedings were pending before the aforesaid date. So he is claiming time bound promotion from 25.1.1985 and is challenging the legality of the order of punishment dated 25.3.86 and the appellate order dated 3.11.1986.

4. In para 10 of the Counter Affidavit it has been stated that disciplinary proceedings were pending and the P.M.G. was rightly informed regarding the same. The amount was withdrawn on 26.4.83 and in the same month the fraud was detected. It appears that some fact finding enquiry was made and ultimately charge memo was submitted on 24.5.85. So it cannot be said that on 25.1.85, when the promotion became due, any departmental proceeding was pending and as such there was no justification for not giving applicant the time bound promotion as claimed by him. Vibhakar Tripathi was ordered to pay Rs. 1093/-. His time bound promotion was due on 30.11.83 and the same was given to him inspite of the fact that the fraud was detected in April, 1983 and he was also under clouds. No departmental proceeding was pending on 30.11.83 when Vibhakar Tripathi's time bound promotion was due. According to the applicant some other persons involved were also promoted from due date but a discrimination was made against the applicant. In view of all the above, we hold that there was no justification in giving time bound promotion to the applicant from 26.3.86 and not from 25.1.85. So the authorities are directed to give him time bound promotion with effect from 25.1.1985.

5. The charge against the applicant is that SB-3 (application for opening account filed in Pithoragarh) was not received alongwith A.T.(Advice of Transfer). So it was duty of the applicant to prepare it by cutting out the thumb impression of the depositor available in SB-10(b)(application for withdrawal). The next charge is that after opening the account he transferred the Pass Book to Vibhakar Tripathi, Counter Clerk for delivery to the depositor but he did not obtain any receipt from the counter clerk nor ensured to have obtained any receipt from the depositor and so this non observance of correct procedure facilitated the loss of SB-10(b) and fraudulent closure of the account which ultimately caused a loss of Rs. 2593/- to the Department. In this case the alleged depositor filed the application for withdrawal and got it verified by Anoop Kumar Mishra, National Savings Agent who was well known to these persons. Naturally they accepted his attestation and the counter clerk forwarded the papers to the applicant who was ledger clerk. The duty of the ledger clerk is to check the admissibility of the claim i.e. whether the amount is available in the account or not. After necessary noting he had to forward all the papers to the A.P.M. for sanction. There is absolutely no evidence that the applicant was a member of this conspiracy and he knew that it was a case of fraudulent withdrawal. The omission mentioned in the charge memo could not facilitate false withdrawal. Here the main

M

- 6 -

cause of the false withdrawal was the attestation made by the aforesaid National Savings Agent who, could be believed under the circumstances of the case. So the applicant cannot be punished on the ground that these omissions facilitated the false withdrawal. Of course the non cutting of the thumb impression and pasting the same at the required place and the disappearance of the application for withdrawal could create difficulty for the Investigating Officer in locating the real culprit. The application for withdrawal has disappeared. It cannot be said that due to disappearance fraudulent withdrawal was made but of course it could be removed in order to shelter the culprit by removing the evidence. Had the thumb impression ~~been~~ ^{cut} and kept it could be used for comparison in case any culprit was apprehended. In this way these omissions simply put ~~off~~ ^{on} spectacles in the way of Investigating Officer and did not facilitate false withdrawal. The applicant admits that he did not cut the thumb impression as required by the rules. His defence ^{is} that since it was a case of illiterate lady, only attestation by the National Savings Agent was sufficient to move the papers onward. It may be so but the fact remains that the applicant violated the rules by not cutting thumb impression and pasting the same. It could not be proved that the applicant was responsible for the loss of SB 10(b). Taking a practical view it would be too much to expect the ledger clerk taking any receipt from the counter clerk on this score. However, it has been

M

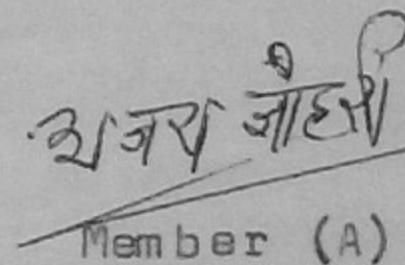
(11)

PM

- 7 -

clearly proved and is also admitted that the applicant did not prepare SB-3 and did not cut the thumb impression as required by the rules and this fact can create difficulty in the way of the Investigating Officer and for this omission the applicant must be punished. In these hard days it would be too much to realize Rs. 600/- from the applicant for this petty omission specially when the application was attested by a National Savings Agent who was well known to these people. It may be repeated that there is no evidence that the applicant knew about the fraudulent nature of the transaction and he was also a member of the conspiracy. So the punishment awarded is clearly excessive and we substitute the punishment of Censure instead of punishment of recovery of Rs. 600/- from the applicant. The amount, if any, recovered be refunded. So far as his claim for time bound promotion is concerned the authorities are directed to give him the same with effect from 25.1.1985. The application is disposed of accordingly with costs on parties.


Vice Chairman


Member (A)

Dated the 7 Oct., 1987

RKM