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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Registration (OA) no. 786 of 1987

R.M.Tripathi applicant.

Versus

Union of India and others Respondents.

Hon'ble D.S.Misra, A.M.

Hon'ble G.S.Sharma, JM

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

In this application under Section 19 of the A.T.Act XIII of 1985, the applicant has sought the cancellation of the penalty for recovery of a sum of Rs.14,880/- from the salary of the applicant passed by the Superintendent of Post Offices Deoria.

2. The admitted facts of the case are that the applicant while working as Postal Assistant and officiating as Sub Post Master ^{at} Bhatpar, District Deoria was responsible for not observing the procedure prescribed under Rule 425 of the P&T Manual Vol.VI Part II, which resulted in the loss of Rs.31,500/- to the department. The chargesheet was served under Rule 16 of the CCS(CCA) Rules 1965 for imposition of a minor penalty. It is contended on behalf of the applicant that adequate opportunity was not given to him to defend himself and an ex parte order was passed in an illegal manner. The applicant had filed an appeal to the appellate authority on 20.6.1987 but the same has not yet been disposed of by the appellate authority.

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3. We have heard learned counsel for the parties and have carefully perused the documents on record. The respondents have filed the disciplinary proceedings file concerning this matter. The charge against the applicant is that on 7.5.85, he received the Pass book of Savings Bank Account No. 255976 at Lar Post Office from depositer Sri Noor Haq with an application for transfer of an account. The applicant allotted an account no. 110643 in an illegal manner violating the provisions of Rule 442 of P&T Manual Vol.VI Part II. He was not a proper person to accept the Pass book and the application for transfer of the account should have been submitted at Lar Post Office from where these papers should have been transferred to the new Post Office. The applicant returned the Pass Book to the depositer and sent the application for ~~transfer of~~ account in Form 10B to the Head Post Office Deoria in an irregular manner. On 14.5.1985 on the demand of the Pass book by the Head Post Office Deoria, Sri Jai Narain Sharma Postal Assistant, obtained the passbook from Sri Ali Ahmad, son of the depositer and sent it to the Head Post Office Deoria. On receipt of the Pass Book from the Head Post Office Deoria on 21.5.85, the applicant, while working as acting Assistant Post Master withdrew a sum of Rs.15000/- in the name of one Dr. Munna as the messenger of the depositer. Again on 24.5.1985, a sum of Rs.16500/- was withdrawn and paid to Dr. Munna as the messenger of the depositer. The above withdrawals were made by making fictitious signature of the depositer. The applicant furnished his reply vide letter dated 1.6.87 requesting for postponing the inquiry until the case registered with the police was finalised. The disciplinary authority

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passed the impugned order holding the applicant as well as Sri J.N.Sharma, another official, responsible for the loss of Rs.31000/- to the department. The disciplinary authority has also held that Sri Ramendra Mani Tripathi is more responsible as he took the pass book on 14.5.85 from the depositer and sent it to the Head Post Office for transfer. On receipt of the pass book from the Head Post Office on 21.5.85, he did not ensure delivery to the depositer, filled in withdrawl form himself on 21.5.85 and 24.5.85 and got withdrawl made through Sri J.N.Sharma, to a person other than depositer. The main ground taken by the learned counsel for the applicant is that he was not given sufficient opportunity to defend himself as his request for being supplied with photo copies of various documents were not supplied to him.

4. We have considered this matter and we find that in para 6(vii) of the claim petition, he has himself stated that under Rule 77 of the Post & Telegraph Manual there is a provision for providing permission to inspect all the relevant records. From the perusal of the inquiry file, we find that such permission was given to the applicant who did inspect the record, but even after inspecting the record, the applicant requested for supply of photo copies of various documents. This request was not conceded and we are of the opinion that the applicant has failed to show any Rule under which he was entitled to ^{be} supplied with photo copies of the documents demanded by him. By a letter dated 20.5.87 the applicant was given further 7 days time to furnish his reply but in his reply dated 1.6.87, he reiterated the demand for photo copy of the documents ^{and} for postponing

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the inquiry. We are of the opinion that there is no merit in the contention of the applicant that he was not given sufficient opportunity to defend himself. We have perused the order passed by the disciplinary authority and we find that the conclusion arrived at by the disciplinary authority is based on evidence, documentary as well as oral, which proves the involvement of the applicant in the withdrawal of the amount by fraudulent means. We are ^{also} of the opinion that the order passed by the disciplinary authority imposing the impugned penalty on the applicant does not suffer from any defect. *There is no merit in the case of the applicant.* We accordingly dismiss the application with the direction that the parties shall bear their own costs.

A.M.

Bhima
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J. M.
J. M.

JS/ 29.4.88