

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 1096 of 1988

Allahabad this the 30th day of Aug. 1995

Hon'ble Dr. R.K. Saxena, J.M.
Hon'ble Mr. S. Dayal, A.M.

Bhagwan Dass, S/o Sri Sumiran, A/a 38 years,
Ex. BPM Ramchaura, B.O. Via Campi erganj, Distt.
Gorakhpur.

APPLICANT

By Advocate Shri R.C. Sinha,

Versus

1. Sr. Superintendent Posts, Gorakhpur.
2. D.P.S., Allahabad.
3. Union of India through Secretary, M.O.G., etc
New Delhi.

RESPONDENTS

By Advocate Shri N.B. Singh.

ORDER

By Hon'ble Dr. R.K. Saxena, Member (J)

To challenge the order of punishment
annexure A-3 and appellate order annexure A-5 is
filed this O.A. by the applicant Shri Bhagwan Dass.

2. The facts of the case are that the
applicant was working as Branch Post Master Ram
Chaura during the period January, 1986 to June,

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1986. Smt. Panmati Devi had savings bank account no.84226 in the Ram Chaura Post Office. The applicant made entries of debit of Rs.250.00 each on 04.1.1986, at 18.1.1986 and 05.3.1986 and of Rs.200.00 on 11.6.1986 from the savings bank account no.84226. He made the entries of debit in the record of post office but no such entry was made in the pass book because it was never produced. It is alleged that the said amount of Rs.950.00 (total of Rs.250.00+250.00+250.00+200.00) which was shown debited in the record of post office was not paid to the depositor Smt. Panmati Devi.

3. It was detected from the perusal of savings bank journal of the branch post office. The preliminary enquiry was made in the matter. Smt. Panmati Devi gave written statement on 17.3.87 and 25.3.87 that she did not withdraw any amount on those dates, and there was balance of Rs.2000.00 in her pass book. On the basis of this enquiry, the applicant was put off the duty on 30.3.87 and the charge sheet was issued on 05.6.1987.

4. The applicant admitted the charge partly by saying that the withdrawal of total amount of Rs.950.00 on four occasions was permitted without insisting on the production of the pass book but, he denied the amount having been kept with him.

5. The Enquiry Officer split up the

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charge of two parts into two separate charges on his own motion. Besides, another charge that the delinquent violated rule 17 by threatening Sri Vasudeo Prasad if he appeared as witness against him, was framed. On the conclusion of the enquiry, it was found established that the amount of Rs.250.00 each on 04.1.1986, 18.1.1986 and 05.3.86 and Rs.200.00 on 11.6.1986 was withdrawn and debited in the records of post office but, without corresponding entries being made in the pass book. The enquiry officer, however, concluded that dereliction of duty on the part of the applicant was established. The additional charge which was added by the enquiry officer was not found established. The report was submitted to the disciplinary authority.

6. On the consideration of the report, the disciplinary authority passed the impugned order annexure A-3 and deprecated the step of adding a second charge by the enquiry officer. It was, however, found that the charge which was framed against the applicant, was proved. Therefore, the order of removal from service was passed.

7. The applicant preferred appeal which was rejected by the appellate authority vide order annexure A-5. Feeling aggrieved by the said order, this O.A. has been brought challenging both the orders,

8. The respondents contested the case and filed reply of Sri Y-P. Rai, Senior Superintendent Post Offices. It is averred that Smt. Panmati Devi had neither withdrawn the amount nor was it received as shown in the records of the post office on four different dates. She had made statements in this connection on 17.3.1987 and 25.3.1987. It is averred that the depositor Smt. Panmati was subsequently won over by the applicant and therefore she admitted, although denied previously, the receipt of the amount. It is also contended that making withdrawals without production of pass book was illegal. The withdrawal without pass book was not perchance but was done repeatedly. According to the respondents, there is no merit in the case of the applicant.

9. We have heard the learned counsel for the parties and perused the record.

10. It is an admitted fact to the parties that withdrawal of amount of Rs.250.00 each on 04.1.1986, 18.1.1986, ~~and~~ 05.3.1986 and of Rs.200.00 on 11.6.86 was made from the savings bank account no. 84226 operated by Smt. Panmati Devi. On every date of withdrawal, the applicant was handling savings bank counter and he made entries in the record of post office. It is also admitted that corresponding entries were not made in the pass book. The contention of the applicant is that the withdrawal could be made even on non-production

of Pass Book. The contention of the respondents on the other hand, is that it was deliberate because the amount which was withdrawn, was not paid to the depositor. The respondents came with version that the depositor had no knowledge of the withdrawal of the amount from her account as the applicant had been bungling ---- with her account for his illegitimate gains. In this connection, our attention was drawn towards the written statements of 17.3.1987 and 25.3.1987 of Smt. Pan-mati Devi where in she denied withdrawal and payment of those four dates. These written statements were allegedly made during preliminary enquiry. By the time, the stage of final enquiry reached Smt. Panmati Devi retracted from the written statement. The respondents now aver that the payment of amount is admitted by the depositor in the final enquiry. Thus, the question remains for consideration is whether it was obligatory on the part of the applicant to have made entry in the pass book at the time of withdrawal, and the resultant effect on its omission.

11. The learned counsel for the applicant relied on Sub-rule(4) of Rule 8 of the Post Office Savings Bank General Rules, 1981(herein after referred to as rules). Rule 8 deals with Pass Book whereas sub-rule (4) of rule 8 deals with the procedure of production of pass-book at the

time of withdrawal of the amount. It reads:

"(4) The pass book shall ordinarily be presented for all withdrawals and deposits, other than those made by a cheque, and in case where a deposit or withdrawal is made without production of pass-book, the pass-book shall be presented to the Post Office Savings Bank as soon as possible thereafter for bringing up-to-date."

12. The reading of this sub-rule(4) makes it quite clear that general rule is production of pass book at the time of deposit and withdrawals, and the exception is provided when the withdrawal is made by a cheque. In that event also, pass-book is required to be presented as soon as possible. In the present case, the withdrawal were allowed by the applicant not once but, on four occasions namely 04.1.1986, 18.1.1986, 05.3.1986 and 17.6.1986 and never was insisted production of the pass-book. It is either with some ulterior motive or with gross negligence towards faithful discharge of duties. Such negligence in money matters cannot be taken lightly. In this light, even the retracted statement of Smt. Panmati Devi, may not help the applicant to be absolved of the charge. The applicant himself admitted non-production of pass book at the time of the withdrawals and his failure to insist production the pass-book and to make the entries therein. Thus the charge of dereliction of duty is established against the applicant.

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13. The learned counsel for the applicant pointed out the over-stepping of the enquiry officer when he added one more charge. That step was deplicated by the disciplinary authority and that part of report was not taken into consideration. Thus no prejudice is caused to the applicant. No other procedural illegality or irregularity could be shown on behalf of the applicant. The order of punishment and the appellate order are reasoned ones and cannot be assailed in any manner. Looking to the nature of misconduct, the punishment of removal from service, cannot be said to be harsh.

14. On the consideration of facts and circumstances of the case, we find no merits therein. The O.A, therefore, stands rejected. No order as to costs.

(S. Dayal)
Member
Administrative

(Dr.R.K. Saxena)
Judicial Member

/M.M./