

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
A L L A H A B A D

O.A./D.N.No. 236 of 1990

DATE OF DECISION

12/4/96

Guru Prasad/ Jaunpur

PETITIONER(S)

Shri Ram Babu Srivastava

ADVOCATE FOR
THE PETITIONER(S)

VERSUS

Union of India and others

RESPONDENTS

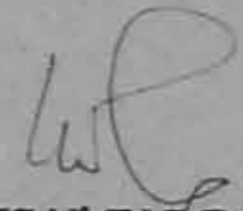
Sri Amit Sthalkar

ADVOCATE FOR THE
RESPONDENT(S)

C O R A M :-

The Hon'ble Mr. S. Das Gupta Member (A)
The Hon'ble Mr. T. L. Verma Member (J)

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether to be circulated to all other Bench ?


(SIGNATURE)

VKP/-

(B) (1)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDL. BENCH

A L L A H A B A D

DATED: THIS THE 12 DAY OF APRIL 1996

O. A. No. 236/90

Hon'ble Mr. S. Das Gupta A.M.

Hon'ble Mr. T. L. Verma J.M.

Guru Prasad s/o Sunder Prasad,

r/o Village Ahmadpur, P.O. Zafarabad,

District : Jaunpur.

----- -Applicant

C/A Sri Ram Babu Srivastava.

VERSUS

1. Union of India through Secretary

P. & T. Government of India, New Delhi.

2. Supdt. of Post Offices, Jaunpur.

3. Post Master General, U.P. Circle,

U.P. Lucknow.

----- -Respondents

C/R Sri Amit Sthalkar

ORDER (Reserved)

By Hon'ble Mr. S. Das Gupta. A.M.

The applicant has assailed the action of the respondents in recovering a sum of Rs. 5,040/- from the applicant's pay for certain lapses on his part, resulting in financial loss to the respondents.

b/c

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Through this application filed under section 19 of the Central Administrative Act, 1985, the applicant has sought a direction to the respondents to pay back to him the sum of Rs.5,040/- with interest @ 18 percent per annum from the date of recovery of the aforesaid sum till the date of its actual repayment.

2. The applicant entered into the service of the department of Post and Telegraph as group 'D' employee. By subsequent promotion, he reached to the level of Postal Assistant and at the time of alleged incident, he was posted at Marhaun, Jaunpur. He was served with a charge memo on 7.1.1982 under rule 16 of (CCS) CCA rule 1965 for certain alleged lapses committed in 1978 while working as Counter clerk, (SB (1), Jaunpur Head Office. The Disciplinary authority, after considering his representation against the charges, imposed a penalty of recovery of Rs.5,040/- from the pay of the applicant, in 36 monthly instalments. He preferred an appeal before the Director of Postal Services, Allahabad and the same was dismissed on 15.2.1984. His petition to the P. & T. Board was also rejected by the order dated 5.1.1990 (annexure 5).

3. The applicant has assailed the action taken against him on the ground that on receipt of the charge memo, he had repeatedly requested for supply of certain relevant documents, but these were not furnished to him. He was only permitted to see only few out of the documents mentioned. It is also alleged that although a number of persons were involved in the alleged fraudulent transaction, action was taken only against him and that, too, without holding any enquiry or allowing the

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applicant to produce any evidence. He has also challenged the penalty on the ground that he was in no way responsible for the alleged fraudulent transaction. He further stated that the P. & T. Board issued an order, copy of which he has annexed(annexure-4), to write off the loss, which the department has suffered, stating that no defect in the rules or procedure had been disclosed.

4. The respondents filed counter affidavit, resisting the claim of the applicant. It has been submitted therein that while the applicant was working as S.B.Counter clerk at Jaunpur, the applicant allowed withdrawal of Rs.12866.65 from 3 years T.D.Account no.341 on the strength of duplicate pass book, which was subsequently revealed to have been fraudulently prepared. It is alleged that he did not bring to the notice of the Assistant Post Master. Non availability of original S.B.Index card of the T.D.Account and infact when the original index card was not available, he got duplicate index card prepared and kept it on record without obtaining the instruction of the Assistant Post Master and finally, he failed to obtain the signature of the persons receiving^{vi} payment at the time of payment and getting the same identified in his presence. For the aforesaid lapses, he was initially placed under suspension on 5.8.1978 and the matter was also reported to the police. The police authority, however, submitted final report, when it was found that the original warrant of payment was lost by the department of Post and Telegraph (Investigation). The respondents have further stated the real depositor of the T.D. Account filed a civil suit and the same was decreed in his favour with cost and the department had to pay Rs. 17,785.15. The department therefore proceeded against the applicant and other offenders. After the enquiry proceedings, Gurmukh Singh Assistant Post Master was exonerated. Jia Lal Mauriya Ledger clerk and A.P. Upadhya, Junior Accountant were

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also exonerated whereas D.N. Mishra another clerk was awarded punishment of Censure. The applicant was served with a charge Memo for violation to rule 145 of P & T Manual Volume V, rule 416(3) and 425 (B 1) of the P & T Manual (V) Part II and 17 and rule 3 of CCS (conduct rule 1965). The applicant submitted reply to the Charge Memo and after going through the same, Disciplinary authority awarded penalty of recovery of Rs. 5,040/- The subsequent appeal and petition were dismissed after due consideration. It has been stated that all the relevant documents and records relating the charges against the applicant were supplied to him. However original warrant of payment which was lost during the course of enquiry could not be supplied to him. Also the documents which were not considered relevant were not supplied to the applicant..

5. The applicant has filed rejoinder affidavit which mainly contains his averments as to how he was in no way responsible for the fraudulent transaction. As regards the contention of the respondents that he was supplied with all relevant documents, he has submitted that the respondents be directed to prove that these relevant documents were made available to him.

6. We have heard learned counsels for both the parties and carefully perused the records.

7. It is not denied that there was a fraudulent transaction, involving withdrawal of amount in a Time Deposit account by a person other than the depositor on the basis of a fraudulently prepared duplicate pass book. It is also not denied that the applicant was working as counter clerk in the relevant post office at that time. The applicant was given opportunity to defend himself by being given charge memo under rule 16 of CCS (CCA) rules. The applicant alleged that he was not given documents, he wanted. He has not filed copy

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of the letter by which he requested the respondents for supply of the documents. There is no proof except his averments to the allegation that he was not supplied copies of the relevant documents. On the other hand, respondents have very specifically stated that all relevant documents except the warrant of payment which was missing were supplied to him. The applicant, while denying this contention, has stated that the respondents be directed to submit proof of such contention. In our view, it was for the applicant to prove that he was not given copies of the documents by atleast producing copy of the letter by which such request was made. In absence of any such request, we can not hold that the applicant was not given proper opportunity to defend himself, by denying him copies of the relevant documents.

8. Enquiry under CCS(CCA) rules, 1985 is not mandatory when only minor penalty proceedings are initiated. We do not, therefore, see any irregularity in the respondents imposing penalty on the applicant without holding enquiry. We have gone through the copy of the order of the Disciplinary authority which is at annexure 1. It is a very detailed order indicating the reasons on the basis of which the Disciplinary authority has concluded that the applicant is guilty of contributory negligence, resulting in financial loss of the department. We see no perversity in the order. Copy of the Appellate order is not on record. However, copy of the order dated 5.1.1990 passed by the Member (P) Postal Services Board, rejecting the petition of the applicant is at annexure A-5. This is also a detailed order which has dealt with various pleas raised by the applicant in his petition. We find no reason to interfere either with the order of the Disciplinary authority or the order rejecting his petition.

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9. In view of the foregoing, the application lacks merit and the same is dismissed. Parties will bear their own cost.

J. M.
J.M.

A. M.
A.M.

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