

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

O.No.875/92

Kedar Nath Mishra : : : : Applicant

vs.

Union of India &
Others : : : : Respondents

Hon. Mr. Justice S.K.Dhaon, V.C.

Hon. Mr. K. Obayya, A.M.

(By Hon. Mr. Justice S.K.Dhaon, V.C.)

The applicant, a Treasurer in the Head Post Office, Auraiya, was, on 12-6-90, awarded a minor punishment by the Superintendent of Post Offices. A sum of Rs.17,760/- was directed to be deducted from his salary in instalments. The Director, Postal Services, vide order dated 16-2-1991, dismissed the appeal preferred by the applicant. The Revision Petition filed by the applicant before the Hon. Member (Personal) Postal Services Board, New Delhi, on 25-4-91 was also dismissed on 16-2-1992. The aforesaid 3 impugned orders have been challenged in this appeal.

2. One Shri G.L. Misra, Mail-Overseer, brought a sum of Rs.60,000/- and the same was delivered to the applicant. However, the applicant made 4 entries of Rs.15,000/- each in the diary of Mail-Overseer. Thereafter he made 2 entries of Rs.30,000/- each in the Treasury Cash Book. On that day, the Head Post Office was subjected to a decoity and a sum of over Rs.1,00,000/- and odd was looted. It appears that disciplinary proceedings were initiated against the applicant, Shri G.L.Misra, Mail-

Overseer and Shri Indra Pal Singh, Sub-Post Master,
Harchandpur Post Office.

3. The charge memo given to the applicant is before us. We have read and re-read the same. The charges were that while the applicant made 4 entries of Rs.15,000/- of each in the diary of Mail-Overseer, he showed receipt of Rs.60,000/- in 2 instalments of Rs.30,000/- each and thereafter made two entries of Rs.30,000/- each. According to the charge, the applicant violated certain rules. As indicated, the disciplinary authority awarded the aforesaid punishment.

4. We may now read the appellate order. According to it, the loss caused to the Government could have been averted, had the applicant observed the prescribed procedure. It has further been observed that for retention of cash, inadequate security-measures should not have been taken. It has been observed:-

" The Treasurer being main functionary cannot disown his responsibility in the entire episode of dacoity."

5. The Revision Authority went a^{step}/further. According to him, the treasurer is responsible for the joint custody of the cash and valuables kept as balance in the post Office. It was also his duty to remove the surplus cash to the Bank. According to him, the applicant admitted that he received Rs.60,000/- in one trip although he had made different entries in the Treasury cash book, and in the diary of the Mail-overseer. He is, therefore, responsible for retention of excess cash in the post office

6. Proceedings have been taken against the applicant under C.C.S.(Rules) (hereinafter referred to as 'Rules'). Rule 11 of the Rules talks of minor penalty and major penalties. Item No.3 under the head of minor penalties reads :-

"Recovery from his pay of the whole or part of any pecuniary losses caused by the Government servant to the Government by negligence or breach of orders on his part."

Rule 16 deals with minor penalties. It provides inter-alia that no penalty shall be imposed upon a Government servant except after informing the Government servant in writing of the action against him and of the imputations of misconduct or mis-behaviour on which it is proposed to be taken. As already indicated in the charge-memorandum, there is no whisper of the losses caused. It is the allegation that pecuniary loss was caused to the Government directly on account of the fact that he had received an amount of Rs.60,000/- in one instalment. Rule 11, to which reliance was placed, the relevant portion of the ^{said} rule reads :-

"Pecuniary losses caused to the Government by negligence or breach of orders....."

The only cause ^{have} said to ~~be~~ caused is that he received Rs.60,000/- in one instalment and trip, instead of Rs.15,000/- and therefore he acted in violation of certain rules. In the circumstances of the case it cannot be said that he acted in violation of Government order. The question still remains as to whether the breach of Government order was rational or irrational or has any nexus to the losses caused to the Government. It is not established that it is

the applicant who is responsible for keeping the amount in unsafe custody on that fateful night. Therefore, it cannot be said that the applicant, by accepting Rs.60,000/- at a time, caused any pecuniary loss to the Government.

7. The second infirmity, as pointed out by us is that the imputation of charge is not in accordance with rule 16(a). The action^{which} is being taken against the applicant is on account of the alleged pecuniary loss caused to the Government and not that he had accepted a sum of Rs.60,000/- in one trip in violation of the Government rule. The charge-memo. does not give any opportunity to the applicant to explain ~~that~~ that in spite of the fact that he had accepted a sum of Rs.60,000/- in one lot he should have been held responsible for causing any pecuniary loss to the Government. In the absence of any specific imputation of charge there cannot be any case against the applicant in particular when the applicant was denied of the opportunity for defending himself.

8. There is another feature in this case, which is, whereas Shri G.L. Misra and Shri Indra Pal Singh, were let off by the appellate authorities ^{i.e.} in the case of G.L.Misra, he was given censure while in the case of Shri Indra Pal Singh, order for stopping 2 increments without cumulative effect, was passed, the applicant was awarded punishment.

9. The question is what appropriate order should be passed? Having regard to the fact that in the case of Shri G.L.Mishra and Shri Indra Pal Singh, the appellate authority awarded some minor punishment, we consider it appropriate that the case of the applicant should also be ^{sent} restored back to the appellate authority, so as to enable ^{it} them to consider as to whether it would be just and proper to award any penalty to the applicant

as in the case of Shri G.L.Mishra and Shri Indra Pal

✓ ✓ Singh, but we are not making any order in respect thereof.

✓ ~~But from the circumstances of the case~~ This application succeeds in part and the orders passed by the disciplinary authorities and the appellate authorities are quashed

and the appellate authorities ^{is} are directed to re-hear

✓ and dispose of the appeal in ^{in light of the} view of the aforesaid ~~observations~~


✓ observations ^{made} passed by us, keeping in view the fact

that a substantial amount has already been recovered

from the salary of the applicant. The appellate

✓ authority shall pass an appropriate order within a period of ^a ~~two~~ ^{months} ~~weeks~~ from the date of communication of this order.


Member (A)


Vice-Chairman.

Dated: 23rd Nov., 1992, Allahabad.



(tqk)

ORDER- SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(ALLAHABAD)

O.A. NO. 875/92 of 199

Kedarnath Misra VERSUS U.O.I. & Others

Sl.NO.	Date	OFFICE REPORT	ORDER
1	2	3	4
		<p><u>23-11-92</u></p> <p>(tgk)</p>	<p>Hon. Mr. Justice S.K. Dhaon, V.C. Hon. Mr. K. Obayya, A.M.</p> <p>After hearing the counsels for the parties the case is disposed off.</p> <p>Judgement has been dictated in the open Court.</p> <p> A.M.</p> <p> V.C.</p>