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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH

ALIAHABAD

DATED: THIS THE 17TH DAY OF APRIL 1997

Coram : Hon'ble Mr. S. Das Gupta      AM  
          Hon'ble Mr. T. L. Verma      JM  
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Original Application No. 268/94

OMPAL SINGH s/o Sri Raj pal Singh  
r/o Quarter no. 8-Postal Colony,  
Civil Lines, Moradabad- - - - - Applicant

C/A Sri Anupam Shukla

Versus

1. Union of India through Secretary  
Department of Posts, Dak Bhawan,  
New Delhi.
2. The Member (P) Postal Board,  
Dak Bhawan, New Delhi.
3. Director Postal Services,  
Bareilly Region,  
Bareilly.
4. Sri Daya Ram s/o Bachai Ram  
at present S.S.P. Of,  
Moradabad.
5. Superintendent of Post Offices,  
Moradabad.- - - - - Respondents

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Order (Oral)

By Hon'ble Mr. S. Das Gupta AM

This O.A. has been filed challenging the order dated 27.8.1993 by which the Disciplinary authority has imposed on the applicant penalty of recovery of Rs.10,080/- from the salary of the applicant in thirty six instalments @ Rs.280/-per month and also the order dated 9.12.1993 by which the Revisional authority had moderated the penalty to that of recovery of Rs.7,200/- to be recovered in 36 instalments at the rate of Rs.200/-per month.

2. It appears from the pleadings on record that the applicant, who is Postal Assistant was working as Postal Assistant and was posted as Sub-Post Master at 24 Battalion P.A.C., Sub post office Moradabad, was served with charge memo dated 5.6.1993 under rule 16 of CCS & CCA rules for his alleged omission in informing the authorities that tenure of one Farman Raza, who was working as postal Asstt: at the Money order counter had come to an end. It appears that said Farman Raza was responsible for misappropriation of a large number of money orders and the allegation against the applicant is that he failed to inform the authorities regarding the completion of tenure of said Farman Raza, who had contributed to the loss of public money.

3. The applicant has taken the ground that tenure of a postal Assistant at the money order counter is 3 years and not one year as alleged in

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the charge memo. He has also taken the ground that he had put up the necessary documents on 2.7.1990 for transferring Farman Raza and, therefore, he could not have been held responsible for the offence committed by him.

4. In the counter affidavit filed by the respondents, it has been stated that the applicant had been making direct references and levelling baseless allegations as Union Office bearer. It is also alleged that he had been using political pressure in contravention of CCS & CCA rules. Further allegation is that the applicant while working as Postal Assistant Staff I in Moradabad Head office failed to maintain devotion to duty by not informing the Head Office for shifting Farman Raza Postal Assistant <sup>from</sup> ~~on~~ the Money order counter Issue on completion of his tenure. The said Farman Raza had misappropriated money orders to the value of Rs.33,903/-. It is stated that the applicant was fully aware of the conduct of Farman Raza who was also involved in Saving bank fraud case, while working as Postal Assistant at Kunderki H.O. during 1987 and yet the applicant failed to suggest shifting of Farman Raza on completion of his tenure.

5. We heard learned counsel for ~~the~~ both the parties and perused the pleadings on record.

6. It appears from the relevant rules which have been annexed both by the applicant and respondents regarding ~~that~~ tenure for various levels of personnel in the post office that tenure of postal Assistants employed at the saving bank counter and the money order counter is 3 years. One year tenure has been prescribed for

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higher selection grade staff who handle cash and valuables. The said Farman Raza was admittedly a Postal Assistant working on the money order counter. It would, therefore, appear that in accordance with the rules prescribed by the respondents themselves, tenure of Farman Raza was 3 years and not one year as contended by the respondents. Even assuming that tenure was not 3 years but one year, nothing has been brought out on record to indicate duty cast on the applicant to give indication regarding completion of tenure of said Farman Raza. Learned counsel for the respondents have stated that the applicant never denied that he had such duty cast on him and infact he has stated in his appeal and other statements that he had given oral intimation regarding the completion of tenure of Farman Raza and therefore, he must have been aware that this was his duty to give proper information.

7. We are not convinced of the aforesaid argument. In absence of any rule which cast duty on the applicant to inform the authorities regarding the completion of tenure of a postal assistant, we are not satisfied that any case of misconduct has been made out against the applicant. In the first place tenure does not appear to be of one year, but of 3 years. In the second place, there is no duty cast on the applicant to give information regarding the completion of tenure. As a result of this entire charges against the applicant are misconcieved and on the basis of the charge no penalty could be imposed.

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8. In view of the foregoing, impugned orders are quashed. It is stated that ~~if~~ the applicant has already paid Rs.7,200/-. Respondents are directed to refund this money to the applicant within a period of 3 months from the date of communication of this order.

*J. K. Sharma*  
Member (J)

*W. S. S.*  
Member (A)

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