

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Original Application No. 1126 of 2000.

Allahabad this the 6th day of March, 2002.

Q U O R U M :- Hon'ble Mr. C.S. Chadha, Member- A.  
Hon'ble Mr. A.K. Bhatnagar, Member- J.

Suresh Chandra Saxena S/o Late Jwala Prasad  
R/o H..No.164, Surkha, Bareilly (UP) presently is working  
as a Shorter Postman in Head Post Office, Bareilly.

.....Applicant

Counsel for the applicant :- Sri R.C. Pathak

V E R S U S

1. Union of India through the Secretary of Communication  
M/o Communication, D/o Posts, Govt. of India,  
Dak Bhawan, New Delhi-110011.
2. The Post Master General, Bareilly Region,  
Civil Line, Bareilly.
3. The Senior Superintendent of Post Offices,  
Head Post Office, Bareilly.
4. The Senior Post Master, Head Post Offices,  
Bareilly (UP).
5. The Director, Postal Services, Bareilly Region,  
Post Master General Office, Civil Line, Bareilly.

.....Respondents

Counsel for the respondents :- Sri S.C. Tripathi

O R D E R (Oral)

(By Hon'ble Mr. C.S. Chadha, Member- A.)

The case of the applicant is that his son  
Mukesh Kumar Saxena and one of his subordinates Sri Kali  
Charan were found guilty of embezzlement of Rs. 6000/-

*Order*

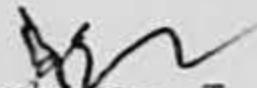
and for this, they had been charge-sheeted and departmental proceedings were initiated against both of them. However, during a surprise inspection, it was found that Sri S.C. Saxena, applicant in this case, was living in the same house alongwith the delinquent official Sri M.K. Saxena who happens to be his son. It is, therefore, mentioned in the charge-sheet against the applicant that he failed to discharge his duty and his conduct was not in keeping with the requirements as laid-down in the conduct rules because he failed to report to the department the irregular action of his son carried out from the house where they both lived together. The department expected him to report that his son was acting in a fraudulent manner. Having been found guilty of this charge a sum of Rs. 3000/- has been directed to be recovered from the applicant, being half the amount of the fraudulent loss caused to the government.

2. The learned counsel for the respondents states, as mentioned in the CA, that the appointment of Sri M.K. Saxena was made on the recommendation of his father and it was expected of him to keep a proper check to his son. We are afraid that his argument cannot be sustained. Both the applicant and Sri M.K. Saxena are separate individuals and both are separately responsible for their own deeds and acts. It was not a part of the duty of Sri S.C. Saxena to keep a watch on the so called illegal activities of his son from his house and to report them to the department. Moreover, there is nothing in enquiry to prove the responsibility of Sri S.C. Saxena in the alleged fraud of Rs. 6000/-. Therefore, the recovery of Rs. 3000/- without any proper enquiry and fixation of responsibility cannot also be sustained.

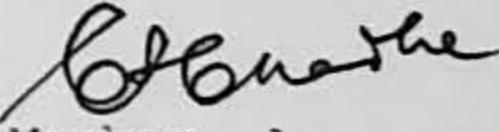
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We are, therefore, of the opinion that the impugned order has been passed in colourable exercise of power without proper application of mind. The applicant cannot be held guilty for the alleged fraud committed by his son, nor can be found guilty of not reporting the alleged fraud committed by his son because his duties did not require him to do so. The entire action is mis-conceived and, therefore, the impugned order is not only quashed, but this seems to be a fit case for awarding costs against the department. The learned counsel for the respondents made a strong plea that costs should not be awarded because an appeal of Sri S.C. Saxena is pending. We are unable to agree with this request of the learned counsel for the respondents. This case is a clear case of harassment and, therefore, we award costs of Rs. 500/-, to be paid by the officer who passed the order of recovery against the applicant.

  
Member- J.

/Anand/

  
Member- A.