

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

(THIS THE 22nd DAY OF December, 2016)

Present

HON'BLE MS. JASMINE AHMED, MEMBER (J)

Original Application No.686 OF 2006
(U/S 19, Administrative Tribunal Act, 1985)

Kamla Kant Misra Son of Late J.N. Misra, aged about 61 years,
Resident of-736, Colonelganj, Allahabad-211002.

.....Applicant

V E R S U S

1. The Union of India through the Secretary, Department of Posts, Ministry of Communication, Govt. of India, New Delhi.
2. The Regional Director Postal Services, Allahabad-211001.
3. The Sr. Supdt. Of Post Offices, Allahabad-211001.
4. The Sr. Post master, Allahabad H.O.-211001.

.....Respondents

Advocates for the Applicant:- Shri S. Narain

Advocate for the Respondents:- Shri Saurabh Srivastava


ORDER

DELIVERED BY

HON'BLE MS. JASMINE AHMED, MEMBER (J)

By way of this original application filed under section 19 of the Administrative Tribunal's Act 1985 the applicants have prayed for the following reliefs:-

- i) *The Hon'ble Tribunal may be pleased to quash the both orders of the Disciplinary authority dated 15.11.1999 (A-2) and appellate order dated 24.11.2005 (A-1) filed in compilation No.1 with all consequential benefits.*
- ii) *To direct the respondents, to refund back the amounts recovered from the salaries of the applicant in pursuance of punishment order dated 15.11.1999 with penal interest @ 18% till date of actual payment.*



- iii) *The Hon'ble Court may further be pleased to direct the respondents to pay the arrears of the stopped increments in pursuance of the impugned punishment order dated 15.11.99 with due interest @ of 18% P/A within stipulated time.*
- iv) *To pay cost of the O.A.s since December 1999 No.1443/99 and instant O.A. amounting to Rs.5000/- or any other relief as Hon'ble Tribunal may be pleased in the fact, and legal provisions in service Rule to compensate the applicant had suffered due to incorrect and wrongful penalty as appellate order."*

2. The applicant is aggrieved by the punishment order dated 15.11.1999 (AnnexureA-2) by which SSPO, Allahabad, imposed the punishment of recovery of sum of Rs.79,200/- from his pay in 36 installments and also the appellate order dated 24.11.2005 (Annexure A-1) by which Director Postal Services, rejected his appeal against the said order of 1999.

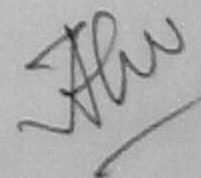
3. The brief factual matrix of the case is that a chargesheet was issued to the applicant dated 24.03.1998 under Rule 16 of CCS(CCA) Rules 1965 issued by the SSPO, Allahabad. On 03.04.1998 the applicant filed an application for providing him opportunity to inspect the relevant documents for his defence. The SSPO vide letter dated 26.08.1998 allowed the request to provide opportunity to inspect relevant documents. The applicant filed his defence statement on 25.09.1999 and the punishment was issued to the applicant vide order dated 15.11.1999 by the SSPO, Allahabad. The order was challenged before this Tribunal by filing OA No.1443 of 1999 but ultimately the OA was disposed of by this Tribunal vide order dated 30.11.2004 directing the applicant to file an appeal against the order dated 15.11.1999. A review petition was filed on 03.01.2005 which was also rejected on 29.3.2005. After rejection of the review application the applicant filed appeal against the order dated

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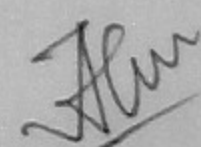
15.11.1999 on 11.06.2005 which was rejected by the appellate authority vide order dated 24.11.2005 against which this original application has been filed. The counsel for the applicant has also stated that two punishments have been simultaneously imposed upon him, one is of recovery and other is of stoppage of his one next increment for two years without cumulative effect.

4. The applicant was working as Assistant Post master At Allahabad Head Post Office for the period from Decemeber,1996 to August 1997. During this period it has been alleged against him that he has failed to ensure timely submission of Kissan Vikash Patraas (KVPS), Discharge Returns due to be submitted to the office of the Director Postal accounts, Lucknow in the first week of the succeeding months to the months to which it is related. The delay in submission of returns to Audit Office resulted in non-detection of forged encashment of KVPS at Manauri Air Force Post office and fraudulent discharge of KVPS to the tune of Rs.62,90,560/-. It is also alleged that the applicant received payment of over time allowance for 16 different dates for this respective specific work, but he failed to scrutinize the genuineness of these forged discharge KVPS at Manauri Air Force Head Office working as Assistant Post master (SB) Allahabad Head Office during the aforesaid period. It was also the allegation against the applicant that:-

- “(i) Presence of Word “Regd” as well as “SB” in the date stamp affixed on the discharged forged KVPs.
- (ii) Absence of registration No. and date of issue.
- (iii) Improper identity slips accompanied with discharged KVPs on different dated such megligence by applicant being an Assistant Post Master (In-charge) of the Branch has facilitated in commission of the fraud to the tune of Rs.62,90,560/- at Manauri Air Force Post Office, which is under accounts jurisdiction of Allahabad Head Post office.”



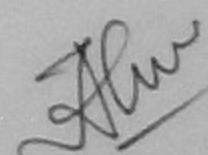
5. The main allegation against the applicant was that the applicant failed to supervise proper discharge of duties by his sub-ordinate officials, hence he was chargesheeted under Rule 16 of CCS(CCA) Rules 1965 vide order dated 24.03.1998 and after taking into consideration his representation dated 25.09.1999 the punishment of recovery of Rs.79,200/- from his pay in 36 installments of Rs.2200/- Per month along with withholding of his next one increment for two years was awarded vide order dated 15.11.1999. The counsel for the applicant states that Manauri Air Force Post Office works independently and is competent authority to encash those presented at the counter of the Manauri Air Force Post Office and the applicant had no role to play to the alleged loss. The counsel for the applicant also stated that the allegation against him is to failure to ensure timely submission of the discharged returns and also failure to scrutinize the genuineness of the KVPS fraudulently discharged At Manauri Air Force Post office. The counsel for the applicant argues that the disciplinary authority issued similar charge memo to the Dy. P.M. (SB) Allahabad with the similar allegations and also punished him with recovery of Rs.86,400/- and stoppage of one increment for one year. He contended that the case of the Dy. P.M. (SB) Allahabad Shri C.B. Singh has been finally decided by the office Sub Postal Board, Government of India, Ministry of Communication, Department of Post Dak Bhawan, Sansad Marg, New Delhi vide order no.C-170114/178-2000-VI dt. 3rd September, 2001 and exonerated the said Shri C.B. Singh and ordered to set aside the punishment order. He also contended that the postal Board New Delhi was pleased to record its findings for the decision to exonerate officials which is fully applicable in the case of the applicant also. Hence he states that his case shall also be considered at par with the case of Shri C.B. Singh.



6. The respondents have filed their counter affidavit and contested the case and also stated that nothing illegal or discretion has been caused to the applicant and reiterates that the punishment imposed upon the applicant was proper and commensurate with his alleged misconduct. Counsel for the respondents also states that the appeal has also been rejected rightly as a loss has been caused to the respondent by the negligence of the applicant. He also emphasized that the applicant has taken over time allowance for the work done by him. Hence the applicant should have discharged his duties more competently and the loss caused by him has to be realised from him only and taking a lenient view after his reply only an amount of Rs.79,200/- in 36 installments has been ordered to be recovered from his pay. It is not the case that the applicant was not afforded opportunity of defence or the proper procedure was not followed by the respondents. Hence there is no illegality on the part of the respondents.

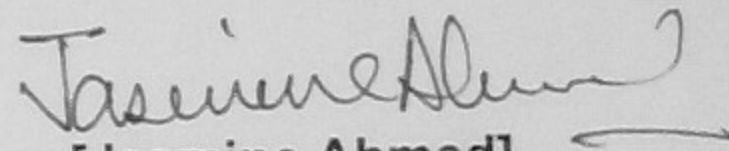
7. The counsel for the applicant has vehemently argued that his case is completely on the same footing of Shri C.B. Singh and as his case has been decided by the Postal Board vide its order dated 03.09.2001 and exonerated the said C.B. Singh from the punishment imposed upon him who was also punished with recovery from his pay and also stoppage of increment along with the applicant. The applicant states that his case also demands similar treatment.

7. It is a settled law that in a matter of Disciplinary proceedings if the proper procedure has been followed by the Disciplinary Authority as well as the Appellate Authority as per law then the scope of interference of the



court becomes very limited. Taking into consideration that both the applicant and C.B. Singh were at same footing and both were punished from the same omission hence the respondents are directed to place the matter of the applicant before the Postal Board and if the applicant is similarly situated with C.B. Singh the matter shall be decided accordingly. The entire exercise shall be completed within a period of six months from the date of receipt of a certified copy of this order.

8. In view of the above, the original application stands disposed of. No Costs.


[Jasmine Ahmed]
Member - J

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