

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
BENCH ALLAHABAD**

(ALLAHABAD THIS THE 28<sup>th</sup> DAY OF Aug 2014)

PRESENT:

**HON'BLE MR. JUSTICE S.S. TIWARI, MEMBER - J  
HON'BLE MR. U.K. BANSAL, MEMBER - A**

**ORIGINAL APPLICATION NO. 907 OF 2006**  
(U/s, 19 Administrative Tribunal Act.1985)

Babu Lal Sharma son of Late Sri Deoki Nandan Sharma,  
resident of Village Saharoi, Post Office Banauli via Lodha,  
District Aligarh.

.....Applicant

By Advocate: Shri S.S. Srivastava

Versus

1. Union of India through Director General of Posts,  
Government of India, Ministry of Communication I.T.,  
Department of Post Dak Bhawan, Sansad Marg, New  
Delhi.
2. Post Master General, Department of Post Agra Region,  
Agra.
3. Senior Superintendent of Post Department of Posts  
Aligarh Division Aligarh.
4. Desk Officer (V.P), Government of India Ministry of  
Posts, Dak Bhawan, Sansad Marg, New Delhi.
5. Under Secretary, Union Public Service Commission  
Dholpur House, Shahjahan Road, New Delhi through its  
Secretary.

..... Respondents

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By Advocate: Shri P. Krishna.

(RESERVED ON 21.08.2014)

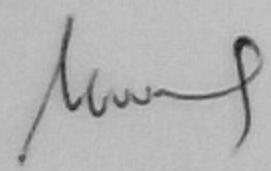
**ORDER**

**BY HON'BLE MR. U.K. BANSAL, MEMBER - A**

This O.A. has been filed by Shri Babu Lal Sharma, who was working in the Department of Post Offices and retired from the post of Post Master Khair, District Aligarh on 31.12.2001. He was served a charge-sheet on 03.01.2002 with three articles of charges and after departmental proceedings, he was awarded the punishment by the appropriate authority, of withholding of 10% of admissible monthly pension permanently, after obtaining advice of the Union Public Service Commission.

2. Through this O.A., the applicant seeks the quashing of the punishment order dated 06.9.2005 and also the advice tendered by the Union Public Service Commission dated 29.08.2005 which has been relied upon. The applicant further seeks the refund of Rs.32650/- and the refund of the deducted pension with 12% interest.

3. In his detailed Original Application, the learned counsel for the applicant has stated that the applicant was served a charge-sheet three days after his retirement on 03.01.2002. But since the proceedings had been initiated vide a memo dated 28.12.2001, the proceedings were deemed to be converted under Rule 9 of the CCS (Pension) Rules, 1972.

 The applicant asked for the documents (relied upon) on 10.01.2002 but these were not provided to him by the Inquiry

Officer. The applicant again demanded some additional documents vide his letter dated 26.6.2002, which were also not given to him. Nine Prosecution Witnesses and seven Defence Witnesses were examined by the Inquiry Officer, who submitted his report on 22.09.2003 and found the charges as proved. The applicant submitted his representation dated 12.10.2003 denying the allegations. As per Rules, the matter was forwarded for the consideration of the President of India, who sought the advice of U.P.S.C. Based on this advice, the impugned punishment order was issued.

4. It has been argued that the statements given by the Prosecution and Defence Witnesses were not carefully considered by the Disciplinary Authority and that the charges were not substantiated against the applicant. Hence, the Disciplinary Authority passed his order without considering the material evidence on record and thus making the final order perverse in law. It is the contention of the applicant's counsel that the enquiry was conducted into only five accounts. Almost all Prosecution Witnesses have stated that they had not made any complaints about the alleged non-payment of pension while the defence witnesses have attested to the fact that the pension payment was made to the concerned account holders. Thus, important evidence on record has not been considered while issuing the punishment order. It has further been stated that the documents demanded by the applicant had a direct bearing on the enquiry but the same were not supplied to him during the course of enquiry and the Inquiry Officer maintained that

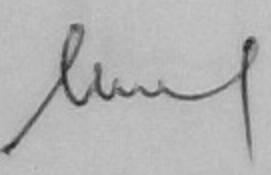
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these documents were not available with him. Hence, the applicant could not defend his case properly thereby causing extreme prejudice to his interest and violation of principles of natural justice.

5. The learned counsel for the applicant has also mentioned that almost all the complaints against the applicant were written by Shri Roshan Lal on 04.05.2000. All the complaints related to Village Shivala Khurd and Shivala Kalan. It is clear that the complaints have been manipulated on the same day and are false and fabricated. The detailed representation given by the applicant, giving an analysis of the evidence on record was not considered by the Disciplinary Authority in an illegal, arbitrary and perverse manner. Similarly the U.P.S.C has not considered the evidence on record in a proper manner and, therefore, its advice is also liable to be quashed.

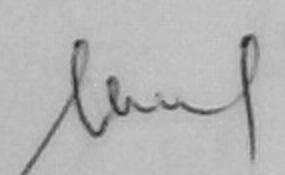
6. Lastly, the learned counsel for the applicant has also averred that the applicant deposited Rs.32650/- under pressure of the Departmental Authorities. No loss has been caused to the Post Office since the pension cheques issued by the State Bank of India in the names of pensioners were deposited in the Post Offices by the pensioners and subsequently paid to them.

7. A detailed counter affidavit has been filed by the respondents. It has been stated that a complaint dated 9.4.2000 (much before the applicant's retirement) was



received from Smt. Mithlesh Sharma, Gram Pradhan, Shivala Khair, Aligarh. This complaint was enquired into by S.D.I Khair and it was found that the applicant was involved in a case of fraud and misappropriation of Government money to the tune of Rs.65250/- . The enquiry revealed that the applicant had permitted to open 46 Savings Bank (S.B.) accounts in the names of deceased persons and in fake names with fake addresses with initial deposit of Rs.20/- in each case. The cheques of old age pension issued by the Harijan Samaj Kalyan Office Aligarh received in the Khair Post Office were deposited in these fake accounts. After the cheques were cleared the amounts were credited to these accounts and later withdrawn by forged signatures and showing forged witnesses. In this enquiry one counter-clerk Shri Ram Prasad was also found responsible for the fraud. The applicant was placed under suspension on 02.11.2001 and disciplinary proceedings were initiated against him under Rule 14 of the CCS (CCA) Rules 1965 by an order dated 28.12.2001 i.e. 3 days before his retirement. These proceedings were subsequently converted under Rule 9 of CCS (Pension) Rules 1972.

8. It has been stated in the counter affidavit that the applicant did not submit any reply to the memo of charges and the Inquiry Officer submitted his report dated 22.09.2003 concluding that all charges were fully proved. After receiving the enquiry report and the representation of the applicant, the case was duly forwarded to the President of India for appropriate action under the CCS (Pension) Rules 1972 in



view of the grave misconduct of the applicant. After careful consideration of all facts and circumstances, the President of India came to the conclusion that the proved charges were grave in nature impinging on the integrity of the applicant and consequently the impugned punishment order was issued.

9. The learned counsel for the respondents has averred that the documents demanded by the applicant had no relevance to the charges levelled against him nor were they available. The whole episode was based on forged documents and withdrawal had been made with forged names, signatures and addresses and as such there were no documents pertaining to the case as had been demanded by the applicant. It has also been stated that the charges were fully proved against the applicant during enquiry. The original complaint was not made by Smt. Kiran Devi or any of the so called account holders but was made by Mrs. Mithilesh Sharma, Gram Pradhan, as mentioned earlier. All these facts came into light following an enquiry into that complaint. The applicant has tried to absolve himself from the offence by stating that no complaint was received from the depositors, whereas, since accounts were opened in the names of deceased and fake persons with fake addresses, hence, there were no reasons for any complaint of genuine depositors because neither any person had opened the account nor any money was paid to them. The entire amount was taken away by the applicant and co-accused counter-clerk.

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10. The counter affidavit filed by the respondents discusses each of the arguments raised in the O.A relating to various individuals/ depositors. It has also been mentioned that this enquiry was made in respect of five accounts. It was also revealed from the enquiry that there could be more irregularities in the Khair Post Office and as such a detailed enquiry was made. In this detailed enquiry 46 accounts were found to have been opened in the name of either deceased persons or in fake names and addresses and these details have been stated in the charge-sheet framed against the applicant. It has further been reiterated that the documents demanded by the applicant had no relevance to the charges nor were they available as the whole episode is one of fraud based on fake documents. The procedure prescribed under the CCS (Pension) Rules have been fully complied with and the impugned order has been issued on behalf of the President of India on the advice of U.P.S.C.

11. The learned counsel for the respondents has also stated that the applicant and counter-clerk Shri Ram Prasad had accepted the responsibility for the above fraud and applicant had deposited half of the total amount misappropriated at Khair Post Office. It has been clarified that the cheques had been issued by the Harijan Samaj Kalyan Office, Aligarh which is an office of the State Government and like the department of Post Office, it is also part of Government. Hence, it is obligatory on the part of the department of Posts to save the Government from any illegitimate losses. It has finally been stated that the Savings Bank Accounts are opened through an

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introducer, who should be well acquainted with the Sub Post Master i.e. the applicant in this case. The applicant could neither produce the depositors or introducers nor any evidence to prove that the amount withdrawn had been paid to the real depositors. Hence, it is clear that the total amount involved in this fraud was misappropriated by the applicant and the counter-clerk under a well managed conspiracy.

12. The applicant had denied the contentions of the respondents in his rejoinder affidavit. He has reiterated that the applicant was not provided with documents, which were relied upon during the course of the enquiry and hence the principles of natural justice had been violated.

13. The counsels on both sides were heard at length and they argued largely on the basis of their pleadings and documents on record.

14. The learned counsel for the applicant also argued that it was incorrect to state that applicant had accepted the responsibility for any fraud and that he had not committed any illegality or misappropriation. He also denied the fact that he had deposited half of the misappropriated amount in the Post Office.

15. After close examination of the pleadings and after hearing the arguments on both sides, the enquiry report, articles of charge and the statements of various witnesses were also examined. The letters issued by the applicant dated

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10.01.2002 and 26.06.2002 asking for certified copies of certain documents were also seen. A plain reading of these letters indicates that the documents asked for by the applicant have no bearing on the enquiry being conducted against him. It appears that this was part of dilatory tactics by the applicant to delay the conduct of the enquiry, if not make it absolutely impossible.

16. A reading of the enquiry report indicates that each of the articles of charges have been examined in detail in the light of available evidences. The conclusions drawn from the enquiry establishing the correctness of all three article of charges, is logical and backed by cogent reasons and evidence. The contentions of the applicant in regard to the article of charges have also been taken into account. Notably the applicant has levelled unsubstantiated charges against Shri R.K. Verma, SDI, who was initially the Inquiry Officer in this case. We find that the Inquiry Officer has rightly concluded that the applicant, by his acts of omission and commission, has violated important Rules and Banking Procedures and directions of the Head Office dated 22.12.1989, 02.4.1990 and 11.6.1990.

17. A perusal of the records reveal that while the applicant was working as S.P.M, Khair Sub Post Office, he allowed to opening of 46 S.B accounts. These accounts were opened in the names of deceased persons and in some fake names with fake addresses. They were opened with initial deposit of Rs.20/= each and thereafter old age pension cheques issued

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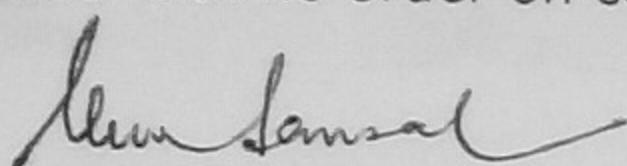
by the Harijan Samaj Kalyan Office in these fake names and names of deceased persons were received in the Khair Post Office. These cheques were subsequently cleared from the clearing house and the amounts were credited in the respective accounts. These amounts were later withdrawn from the S.B accounts with the help of forged signatures and fake witnesses. The total amount involved was Rs.65,250/- and the applicant was held responsible for this fraudulent activity along with counter clerk Shri Ram Prasad. Notably this net amount of fraud has been credited by both these officials in the Post Office. While the applicant has denied any misdoing the fact of having refunded Rs.32650/- has not been denied by him and there is nothing on record to indicate that he did so under any pressure or coercion from the respondents.

18. We also find that all due procedures have been followed while conducting this enquiry and bringing it to a logical conclusion. The impugned order issued by Ministry of Communication and I.T. Department of Posts dated 6.9.2005 is a detailed and speaking order. It is based on the advice tendered by the U.P.S.C. dated 29.08.2005, which discusses each article of charges along with evidence. The case records have been examined by the Commission in detail and the points raised by the applicant in his representation have also been considered. It has been mentioned that the charged officer has not really disputed the charges that the full names and addresses of the introducers and the witnesses were not properly recorded while opening the accounts and while

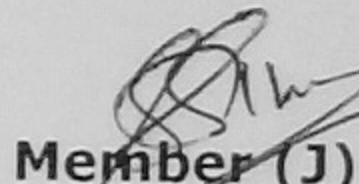
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withdrawing the amounts. His defence is that these persons were known to the counter-clerk and hence such details were immaterial. He has also claimed that the signatures on the applications for opening of the accounts and withdrawal of money tallied which obviated the need for greater attention to the recording of full addresses. The commission has concluded that on the face of it, this defence is unacceptable.

19. After a critical examination of the evidence on record, the Commission has given its recommendations vide its (impugned) order dated 29.08.2005. We are in agreement with these recommendations and find no reason to interfere with the same. Based on the above analysis, we also do not find any error or short-coming in the impugned order dated 6.9.2005. Accordingly, the O.A. does not succeed and is dismissed with no order on costs.



**Member (A)**



**Member (J)**

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