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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 02 day of April 2008.

ORIGINAL APPLICATION NO. 107 OF 2008.

Hon'ble Mr. Justice A.K. Yog, Member (J)
Hon'ble Mr. N.D. Dayal, Member (A)

Maya Ram Bhatt, S/o late Sri Ram Bhatt, R/o C-6/5
Sector 31, Post Office Colony, Noida, Gautam Budh
Nagar

.....Applicant

By Adv: Sri D.K. Jaiswal

Versus.

1. The Union of India through Secretary, Ministry of Communication, Department of Postal, Dak Bhawan, Sansad Marg, New Delhi.
2. Sr. Supdt. Of Post Offices (now Supdt. Of Post Offices) Ghaziabad Division, Ghaziabad.
3. Director, Postal Services, Ghaziabad Division, Ghaziabad.

.....Respondents

By Adv: Sri S. Singh

With

ORIGINAL APPLICATION NO. 484 OF 2007.

Jamauna Prasad, S/o late Sri Ram Dhari, R/o C-6/10,
Sector 31, Noida, District Gautam Budh Nagar.

.....Applicant

By Adv: Sri Rakesh Verma, A.K. Pandey and Vinod Kumar

Versus.

1. The Union of India through Secretary, Ministry of Communication, Department of Postal, Lodhi Road, New Delhi.
2. Sr. Supdt. Of Post Offices Ghaziabad Division, Ghaziabad.
3. Sri Ram Janam, Enquiry Officer, Senior Postmaster, Ghaziabad U.P.

.....Respondents

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By Adv: Sri S. Singh

With

ORIGINAL APPLICATION NO. 669 OF 2007.

Jamauna Prasad, S/o late Sri Ram Dhari, R/o C-6/10,
Sector 31, Noida, District Gautam Budh Nagar.
.....Applicant

By Adv: Sri Rakesh Verma, A.K. Pandey and Vinod Kumar

Versus.

1. The Union of India through Secretary, Ministry of Communication, Department of Postal, Dak Bhawan, Sansad Marg, New Delhi.
2. Sr. Supdt. Of Post Offices Ghaziabad Division, Ghaziabad.

.....Respondents

By Adv: Sri S. Srivastava

With

Civil Contempt Petition no. 149 of 2007

Jamauna Prasad, S/o late Sri Ram Dhari, R/o C-6/10,
Sector 31, Noida, District Gautam Budh Nagar.
.....Applicant

By Adv: A.K. Pandey

Versus.

1. Mr. I.M. G. Khan, IPS, Secretary, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Sri Rajesh Kumar Singh, IPS, Director Postal Services, Ghaziabad Division, Raj Nagar, Ghaziabd.

.....Respondents

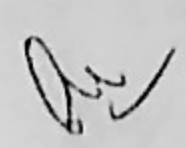
By Adv: Sri S. Singh

With

ORIGINAL APPLICATION NO. 246 OF 2008.

Jamauna Prasad, S/o late Sri Ram Dhari, R/o C-6/10,
Sector 31, Noida, District Gautam Budh Nagar.
.....Applicant

By Adv: Sri A.K. Pandey



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Versus.

1. The Union of India through Secretary, Ministry of Communication, Department of Postal, Dak Bhawan, Sansad Marg, New Delhi.
2. Sr. Supdt. Of Post Offices Ghaziabad Division, Ghaziabad.

.....Respondents

By Adv: Sri S. Singh

O R D E RBY JUSTICE A.K. YOG, MEMBER-J

Heard learned counsel for the parties appearing from both sides in the above case and it is jointly stated that all the cases be heard and decided together as they arise from similar facts and identical Rules of the Department. We propose to refer to the facts of leading case viz. O.A. no. 107 of 2008.

2. M.R.Bhatt-applicant as well as Jamuna Prasad/ applicant in other connected O.As/ are employees of Postal Department. At relevant point of time, they were serving in Ghaziabad Division, Ghaziabad. Both were placed under suspension. Admittedly charge-sheets were served upon them in order to initiate disciplinary proceedings by the department. It appears that FIR was also lodged against them, criminal proceedings initiated and in pursuance of it, they were arrested at one stage and sent to Jail. The applicants were, however, paid subsistence allowance in accordance with the relevant rules. Order enhancing subsistence allowance, from 50% to 70% was passed in the month of April, 2001. From aforesaid facts, it is evident that these two applicants were not

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responsible till stage stage, in delaying departmental proceedings.

3. The department, however, reviewed their cases (as contemplated under rules) and reduced subsistence allowance from 70% to 50% in the month of May, 2007 in both the cases and then again from 50% to 25% by means of the impugned composite order dated 11.6.2007 {Annexure-I to the leading O.A.} with reference to both the applicants.

3. Jamuna Prasad filed O.A. no. 484 of 2007 {Jamuna Prasad Vs. Union of India and Others} raising grievance regarding departmental proceedings particularly with reference to non-supply of certain documents inasmuch as his representation in that respect rejected by means of order dated April 03, 2007 {Annexure-I to O.A. no. 484 of 2007}. The said order dated 3.4.2007 shows that the department rejected both the pleas {(i) bias and (ii) not to proceed with the enquiry} on the ground that his request was nothing, but an ingenuity to linger department proceedings.

4. In this O.A. no. 484 of 2007 an interim order on August 20, 2007 was passed to the effect that "it is directed that the departmental proceedings may go on, but final orders therein will not be passed till next date of hearing.

5. Order-dated 22.2.2008 (on the ordersheet of O.A. No. 484 of 2007) show that this

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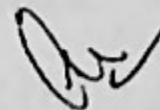
Tribunal did not appreciate request of adjournment on the part of the applicant/Jamuna Prasad, continued the interim order till next date (i.e. 27.2.2008) and subject to automatic vacation if applicant failed to join hearing on said date.

6. Jamuna Prasad filed another O.A. no. 669 of 2007 against suspension order dated 31.10.2007 and order dated 8.5.2007 whereby subsistence allowance was reduced from 70% to 50%.

7. Meanwhile, Jamunal Prasad also filed Civil Contempt Petition no. 149 of 2007 alleging that the respondents authorities were guilty of committing contempt of the order of this Tribunal inasmuch as the authorities acted in violation of interim order of this Tribunal in O.A. no. 669 of 2007 whereby the subsistence allowance was directed not to be reduced.

8. M.R. Bhatt-applicant (in the leading case/O.A. no. 107 of 2008) primarily pleads and contends on the basis of interim order obtained by Jamuna Prasad in O.A. no. 669 of 2007 {referred to above} and consequential advantage given to him by the Department should also be given to him on the basis of parity, but his claim has been rejected by the department; hence the present O.A. no. 107 of 2008.

9. In O.A. no. 669 of 2007 the respondents have filed Counter affidavit. Para 4,5 and 6 of the said reply read:



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"4. That the applicant convinced with Sri M.R. Bhatt, Sub Post Master, Sector 12 Noida and some fraudulent outsiders. The applicant caused the payment of large number of National Savings Certificate/Kisan Vikas Patras by showing them issued from Ambala Cantt. And Ludhiana, Bharat Nagar Post Office, in the name of the fictitious persons, by preparation of forged applications of transfer for Sector 12 Sub Post Office, Noida, whereas the National Savings Certificate/Kisan Vikas Patras were stolen ones.

5. That the applicant caused a loss of Rs. 1,02,00,550/- to the Government by referred act. Further, the applicant was working as Sub-Postmaster Sector 55 during the period from 30.9.2000 to 6.10.2000 connived with the outside miscreants and made payment of National Savings Certificates/Kisan Vikas Patras in the name of fake persons purported to have issued from Ambala Cantt and Ludhiana Bharat Nagar Post Office.

6. That the application of transfer for Section 55 Sub Post office were also bogus. Thus, the loss of Rs. 15,82,250/- were there to the Government for both the offices, the applicant is responsible for the loss of Rs. 10200550 +1582550= Rs. 1,17,83,100/- (One crore Seventeen Lacs Eighty thee thousands one hundred only)".

10. The learned counsel appearing for both the applicants {Jamuna Prasad and M.R. Bhatt} have strenuously argued before us that the department is not acting fairly inasmuch as the department has not provided them the legible copies of the documents relied by it against them and no opportunity is given to inspect original records, in question. It has come in the pleadings of the above-mentioned case before this Tribunal that certain departmental records are in the custody of investigating

agency {CBI}. It has also come on record that criminal case is still pending against the applicants.

11. The contention of the applicants is that the departmental proceedings be stayed during the pendency of the criminal proceedings. This submission does not hold good. It is well settled that both Departmental as well as Criminal proceedings can be undertaken simultaneously. This plea has no force particularly when the applicants have failed to demonstrate any prejudice being caused to them.

12. The other submissions made on behalf of the two applicants is that they have not been provided legible copies of certain documents, and also not given an opportunity to inspect original records. If that be so, the entire proceedings shall stand vitiated as it shall amount to deny an opportunity to defend. It is, therefore, made clear that the department must ensure to live legible copies and in case the applicants object, it must be noted on the said copies by the said applicant while returning them for fresh copies. It goes without saying that flimsy objection of the delinquent should not defer the department to complete disciplinary enquiry.

13. As far as the request of inspection of original record is concerned, the delinquent employee may give reasons and justify said request. Asking for inspection of original records merely for formality cannot be allowed.

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For certain nature of defence only which the delinquent employee wants to take or demonstrate (like colour of ink/tamper etc) it may be necessary to inspect original records.

14. In view of the above, that the contentions raised on procedural aspects cannot be appreciated or adjudicate by the Tribunal at every step. The Tribunals/Courts expect that departmental proceedings shall be held keeping in view the spirit of the rules regulating disciplinary enquiry. We are of the opinion and considering the nature of the disciplinary enquiry, it must be completed expeditiously.

15. Taking into account the totality of the circumstances of the instant case and without entering into the merit of the above noted O.As, we direct the respondents authorities to proceed with the enquiry forthwith in accordance with law and conclude the same expeditiously preferably within a period of six months from the date of receipt of certified copy of this order. The enquiry officer and disciplinary authority shall keep in mind the observations made hereinabove and to provide the legible copies of all relied upon documents to the delinquent employee as required under law. Sri S. Singh, Senior Standing Counsel for respondents states that the legible copies of the relied upon documents have been furnished to the applicants and the applicants are not cooperating in the enquiry. We also refused to enter into the disputed question. The applicants, if still aggrieved by the orders of

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the disciplinary authority, they shall have to seek their grievances by filing departmental appeal etc. as may be provided under Rules wherein all the points including the disputes raised by the applicants in the present O.As regarding non-supply of legible copies of the relied upon documents and inspection of original records may be raised before the appellate authority.

16. O.A. no. 246 of 2008 filed by Jamuna Prasad against order of his dispossession. We direct the respondents not to interfere/disturb allotment/possession of residential accommodation in favour of the applicant (Jamuna Prasad) subject to his paying stipulated rent regularly.

17. In view of the above, we direct that the impugned order reducing subsistence allowance from 70% to 50% and 50% to 25% in the case of Jamuna Prasad, and M.R. Bhatt shall not be given effect to. It is further directed that the disciplinary proceedings be completed within six months of the receipt of certified copy of this order and further suspension order shall stand automatically stand revoked after expiry of six months with liberty to the respondents to conclude the enquiry.

18. In view of the above, all the cases stand disposed of in the above terms. In the CCP, the notices, if any, issued to the respondents are discharged. Copy of this order be placed in all the connected O.As.