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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

**O.A. No.** /432 of 1987

~~T.A. No. x~~  
x

**DATE OF DECISION** 4th September, 1992

Shri Girdharlal Popatlal **Petitioner**  
Popat

Sm. J. I. Yagnik **Advocate for the Petitioner(s)**

**Versus**

Union of India and Others. **Respondent**

Shri Akil Kureshi **Advocate for the Respondent(s)**

**CORAM :**

The Hon'ble Mr. N. V. Krishnan : Vice Chairman

☛ The Hon'ble Mr. R. C. Bhatt : Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? ×
4. Whether it needs to be circulated to other Benches of the Tribunal ? ×

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1. Shri Girdharlal Popatlal Popat  
Postal Assistant,  
Sub-post Office  
UNA (Sorath) - 362 560

. . . . Applicant.

( Advocate : Ms. J. I. Yagnik )

VERSUS

1. Director,  
Postal Services,  
Rajkot Region,  
Rajkot.
2. Shri D. S. Sakalkala  
Post Master General,  
Gujarat Circle,  
Ahmedabad.
3. Union of India  
Union of India Postal Department,  
Dak Bhavan,  
New Delhi.

. . . . Respondents.

( Advocate ; Shri Akil Kureshi )

O R A L J U D G E M E N T

O.A. NO. : 432 OF 1987

Date ; 04/09/1992

Per ; Hon'ble Shri R. C. Bhatt : Member (J)

Ms. J. I. Yagnik, Advocate for the applicant.

Shri Akil kureshi, Advocate for the respondents.

1. This application under section 19 of the Administrative Tribunal's Act is filed by the applicant serving in the postal department, seeking the relief that the

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impunged order dated 23rd June, 1987, passed by the Appellate Authority, viz, Director of Postal Services, Rajkot Region, Rajkot i.e., respondent no. 1 be the quashed and set aside. The case of the applicant is that on 21st March, 1986, he was working in Bilkha S. O. when the SDI, Junagadh visited the said S.O. to verify the stamp advance with applicant and found that Rs.1=10 was in excess and hence the applicant was asked to credit the same to the Government as unclassified receipt but the applicant refused to credit the said amount at that particular time. The grievance of the applicant seems to be that the inquiry has not been conducted by the respondents as per the rules. The applicant has produced at Annexure A-1, a letter dated 22/09/86 from Superintendent of P.O. Junagadh Division alongwith charge sheet by which an action was proposed to be taken against him under Rule 16 of Central Civil Services (Classification Control & Appeal) Rules 1965. The statement of imputation of misconduct was under Rule 3 (1) (ii) and (iii) CCS (conduct) Rules 1964. The applicant had given reply dated 6th October, 1986, Annexure A-2, allowing him to inspect the documents and particulars on which the department relied in framing the charges against him. The applicant has produced at Annexure A-3 the reply that was given to him. The Superintendent P.O., thereafter, conducted inquiry and came to the conclusion that the applicant had disregarded the order of DSPO, Junagadh, and he could not refuse to give the explanation and hence the behaviour of the applicant was not tenable and he was found to be unbecoming of Govt. Servant

and hence the next increment of the applicant was withheld for a period of Six months without cumulative effect. The order passed by the superintendent P.O. dated 29th January 1987, is produced at Annexure A-5, The applicant feeling aggrieved by the said order Annexure A-5, preferred appeal vide Annexure A-6 dated 26th February, 1987. The appellate authority passed the order dated 23rd June, 1987, upholding the order of the Superintendent of P.O. Junagadh Division. The applicant feeling aggrieved by that order has filed this application. The respondents have refuted the allegations made by the applicant by filing the detailed reply.

2. At the time of hearing of this application, Learned Advocate Ms. Yagnik for the applicant has drawn our attention to Rule 217 of Posts and Telegraphs Manual Volume V, which reads as under.

"Deficiency in the cash or stamp balance ----

If a supervising officer finds a deficiency in the cash or stamp balance of a post officer or record office, the postmaster or treasurer or both in the case of post office or the record clerk in the case of record offices should be called upon to produce the money or stamps. If the official or officials cannot do so and are unable to give a satisfactory explanation an inventory of the cash and stamps actually found should be drawn up and got signed by two independent witnesses and action should be taken as prescribed in the rules on the subject of criminal offences in Chapter IV Posts and

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Telegraphs Manual, Volume II."

She submitted that the inquiry is vitiated because the respondents have not complied with this Rule. She submitted that it was the duty of the respondents to first verify as to whether this rule was followed.

3. Learned advocate for the respondents submitted that the applicant has neither in his reply nor in appeal Memo nor in this application before this Tribunal has alleged that the respondents have violated this Rule 217. In short Mr. Kureshi for the respondents submitted that the applicant for the first time, today brings to the notice of this Tribunal that the respondents have not followed Rule 217 and which according to the applicant makes the enquiry illegal. He submitted that it is necessary to consider as to whether it was at all necessary to make the investigation as per this rule, and if so, whether the respondents have complied with that Rule. He submitted that as there is no material on record to arrive at final decision it is not possible today to meet with this submission of learned advocate for the applicant and hence the matter be reminded to the proper authority to decide this point.

4. We have heard the learned advocates and we find that in absence of material before us on this point about the applicability of Rule 217, in the instant case, it is not possible for us to dispose of this application on merits. In our opinion, the Appellate Authority would be the appropriate authority which after verifying the records of the case would be able to decide the question as to whether it was mandatory on the part of the respondents to comply with this rule 217 and if so whether Rule 217, have not been complied by the respondents and what is the effect of the

non compliance of the said rule if the respondents have not complied with that rule.

5. Having regard to the aforesaid position, it would be necessary to remand the matter to the Appellate Authority to decide the above points according to the rules and to dispose of the Appeal after hearing the applicant within four months from the receipt of this order. As the matter is sufficiently old one (numbered in 1987) ~~and~~ the matter should be disposed of at the earliest. The application is disposed of with the above observations and with the following directions to the Appellate Authority *to consider* ✓

1. Whether Rule 217 of the Post and Telegraphs Manual Vol. V was a mandatory rule required to be followed by the respondents in this case ?
2. Whether the respondents have complied with rule 217 or not, if the same was required to be followed ?
3. If the said Rule 217, was required to be followed and is found not to have been followed by the respondents on verifying the record, what is its effect ? *and pass appropriate orders* ✓  
No order as to cost.

*R. C. BHATT*

( R. C. BHATT )  
Member (J)

*N. V. KRISHNAN*

( N. V. KRISHNAN )  
Vice Chairman