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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 194 OF 1992
Cuttack, this the 24th day of May 1999

Sri Suresh Kar Applicant

Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes,
2. Whether it be circulated to all the benches of the Central Administrative Tribunal or not? NO.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN
24.5.99

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

.....

Sri Suresh kar, aged about 35 years, son of Sri khetra kar, resident of Adarshapada, PO/District-Balangir, at present working as Postal Assistant, Banganmura SO under Bolangir Head Post Office, District-Balangir ...Applicant

Advocate for applicant - Mr.Pradipta Mohanty

Vrs.

1. Union of India, represented by the Director General (Posts), Dak Bhawan, Ashok Road, New Delhi-110 001.
2. Director of Postal Services, Berhampur Region, At/PO-Berhampur, District-Ganjam.
3. Superintendent of Post Offices, Balangir Division, Balangir, At/PO/Dist. Balangir-767 001.
4. Post Master General, Berhampur Region, At/PO-Berhampur, District-Ganjam Respondents

Advocate for respondents - Mr.A.K.Bose
Sr.C.G.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

S.Som. In this Application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the chargesheet issued against him at Annexure-1 and the order of punishment at Annexure-3 and the order of the appellate authority at Annexure-5. He has also prayed for a direction to the respondents to refund with interest the amount deducted from the salary of the applicant in accordance with the order at Annexure-3. On the date of admission of the petition on 8.5.1992 realisation of Rs.8500/- from the salary of the applicant was stayed till the disposal of the O.A. as per the interim order prayed for by the applicant.

2. Facts of this case, according to the petitioner, are that while working as postal Assistant, Kantabanji Sub Post Office he was also acting as Treasurer of Kantabanji Sub Post Office in the year 1990. As Treasurer he was holding the key of the Godrej Iron Safe of the Post Office where the cash was being kept. The Iron Safe was a very old one which had been supplied to the Sub-Post Office in the year 1945 when the Sub-Post Office was established. On 16.2.1990 while the applicant was coming from his residence to Kantabanji Sub-Post Office, he fell down from the bi-cycle and in the process lost the key of the Iron Safe, which was kept in a small bag hanging from the front side of his bi-cycle. The iron safe was broken open and subsequently repaired and the duplicate key was prepared at the cost of the applicant with the knowledge of the authorities concerned. But for the loss of the key, in order dated 11.4.1990 at Annexure-1, minor penalty proceedings were drawn up against him. The only charge was that while the applicant was working as Treasurer, he lost the key of the Godrej Iron Safe while coming to office on 16.2.1990 from his residence, as stated by him. Due to the loss of key the postal work was hampered for the period from 16.2.1990 to 22.2.1990 and ultimately the Iron Safe was broken and kept unused incurring an expenditure of Rs.100/-. On the above grounds, the applicant was charged with lack of devotion to duty, gross misconduct and for acting in a manner unbecoming of a Government servant. The applicant denied the charge stating that on the day of occurrence he was ill and his son and daughter were also suffering from fever. Because of their illness he had to keep awake the whole of the previous night. That is how the key was lost while he was coming from his residence to the office on 16.2.1990. The disciplinary authority held, after considering the representation of the applicant, that

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whatever be the circumstances leading to loss of the key, the work of the Post Office came to a standstill as a result of such loss and therefore the charge against him stands proved. He also held that it would not be unfair "if a recovery of maximum permissible amount is ordered to be made" from the pay of the applicant towards adjustment of the loss caused to the Government as the Iron Safe is of no use after breaking of the lock due to loss of the key. He also noted that the iron safe has become unserviceable and irreparable as reported by the company. It needs to be replaced by a new iron safe, the present cost of which is Rs.8000/-. He also noted that there will be further expenditure for transportation and embedment of the new iron safe. Because of this, by the impugned order of punishment dated 21.8.1990 an amount of Rs.8500/- was ordered to be recovered from the pay of the applicant. Against the above order of punishment, the applicant filed an appeal to Director of Postal Services in his letter dated 28.11.1990 at Annexure-4. This appeal was rejected in order dated 23.1.1992 at Annexure-5 on the ground that the appeal has not been preferred within the statutory period of forty-five days and the Director of Postal Services did not find sufficient cause for not preferring the appeal in time. The applicant's further representation dated 14.2.1992 to Post Master General was also not heeded. That is why he has come up in this petition with the prayers referred to earlier.

3. Respondents have filed counter opposing the prayer of the applicant and also praying for vacation of the order of stay issued on 8.5.1992 by the Tribunal. They have stated that the Godrej Iron Safe was supplied to Kantabanji Sub-Post Office long back and it is not possible to ascertain the date of supply. The Iron Safe contained all cash, stamps, stationeries for public sale, National Savings Certificates, Date Stamp and Seals, and other valuables used

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in the post office and sold in course of public transaction at the counter. According to departmental instructions, keeping of the key is the responsibility of the Treasurer, i.e., the petitioner. The chest had another key held by the Sub-Post Master and with the use of both the keys only the chest could be opened. Because of loss of key by the petitioner, the post office works stopped from 16.2.1990 to 22.2.1990. The local representative of Godrej expressed their inability to open the safe and repair it. Ultimately, the iron safe had to be broken open so that the public transaction could be held. With regard to purchase of the new iron safe, the respondents have made the following averment:

"....As per security provisions, once the iron safe is broken or brought into use with a duplicate locally manufactured key, the said iron safe should not be used in the same place but it should be shifted from that place from safety points of view of Government Cash and Valuables. As such, a new Godrej Iron Treasury was purchased and supplied to Kantabanji Sub Post Office for use....."

The new iron safe purchased from Godrej at the price of Rs.7827/- plus local taxes and the cost of transportation, removal of the old safe from embedment and fixing of the new one altogether cost Rs.8500/-. This expenditure had to be incurred, according to the respondents, due to callousness of the applicant and therefore, in the minor penalty proceedings drawn up against him, the impugned order of punishment was passed after taking into consideration his representation denying the charge. It is further stated that the applicant filed appeal after the statutory period of forty-five days was over and therefore, the appeal was rightly rejected by the appellate authority. On the above grounds, the respondents have opposed the prayer of the applicant.

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4. We have heard Shri Pradipta Mohanty, the learned counsel for the petitioner and Shri A.K.Bose, the learned Senior Standing Counsel appearing for the respondents and have perused the records.

5. It has been submitted by the learned counsel for the petitioner that the old iron chest was broken open and got repaired by the applicant at his own cost. According to the rules, once duplicate key has been locally prepared for an iron chest, the chest cannot be used in the same station. That is why a new iron chest had to be purchased for Kantabanji Sub-Post Office. The old iron chest was supplied to Badmal B.O. where the iron chest is in use. It has also been mentioned by the applicant in his appeal to the Post Master General which is at Annexure-6. In this representation the applicant has mentioned that the lock of the old iron safe was broken and repaired by him at his own cost and after that the iron safe was kept in the Divisional Office for six to seven months in perfectly serviceable condition waiting to be supplied to some other office. Ultimately, the old repaired iron safe was supplied to the newly opened Badmal B.O. on 7.2.1992 where the iron safe is giving perfect service. In view of this, in the representation he had prayed for returning all the recoveries made from his pay from the pay of September 1990 onwards. It is submitted by the learned Senior Standing Counsel that the fact of loss of key by the applicant while he was coming to the office from his residence in the morning of 16.2.1990 is the version of the applicant. He might have lost the key else where because of his callousness and negligence and therefore, the cost of replacement of the iron safe has been rightly ordered to be recovered from the applicant.

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6. The respondents have not denied the stand of the applicant, as mentioned in the enclosure to his

Application, that the old Godrej iron safe was repaired by the applicant at his own cost and it was put to perfectly serviceable condition. They have also not denied that the old iron safe was supplied to Badmal B.O. where it is giving perfect service. At the same time, in their averment, the portion of which has been extracted above, they have stated that once the iron safe is broken or brought to use by a locally manufactured key, from safety consideration the iron chest should not be used in the same place, but it should be shifted from that place. From this, it does appear that the iron safe was shifted from Kantabanji S.O. because of safety consideration. The respondents have not denied the assertion of the applicant that the safe is in use in Badmal B.O. We must, therefore, hold that the repaired iron safe is in use at Badmal B.O. As the ^{repaired} iron safe is in use in Badmal B.O. and the cost of repair has been borne by the applicant himself, there is no cause for recovery of the cost of ^{the new} iron safe from the applicant. In view of this, we hold that the recovery of value of ^{new} the iron safe and its transportation from the salary of the applicant is unsustainable. The only amount which could be recovered from the applicant is the cost of disembedment of the old iron safe and the cost of embedment of the new iron safe which, in order to cut short the litigation, we fix at Rs.500/-. We, therefore, order that only an amount of Rs.500/- (Rupees five hundred) only should be recovered from the salary of the applicant and the balance amount already recovered should be refunded to the applicant within a period of 120 (one hundred twenty) days from the date of receipt of copy of this order.

7. In the result, therefore, the Original Application is allowed in terms of the observation and direction given above but without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN