

OA99/95  
(C)

3

Serial No. of Order	Date of Order	Order with Signature	Office note as to action (if any) taken on order
	8/11/2001	<p>This case is released from Court calendar for 2001b hearing.</p> <p>11/12/2001 Vice Chairman</p>	<p>Order of 28.2.95-</p> <p>None appears.</p> <p>One week time is granted to file process fee of Rs.5/- for one copy of application for issue of notice which will be issued as ordered by the Bench.</p> <p>See Register.</p> <p>Process fee of Rs.5/- &amp; one copy of the application has not yet filed by the applicant.</p> <p>for brother orders.</p> <p>7/3</p>
11.3.2002		<p>The applicant by filing this Original Application has sought for direction to quash and set aside the order of removal passed by Respondent No.4 and also for quashing and setting aside the order passed by the Appellate Authority (Res.3) rejecting the appeal of the applicant. He has also sought for direction to re-instate him with all consequential benefits.</p> <p>Brief facts of this case are that the applicant, who was working as Extra Departmental Branch Post Master, Patangi B.O. was issued with the following charges.</p> <p>"Article-I- Sri Sarangadhar Naik, while working as EDBPM, Patangi EDBPM a/c with Phiringia so has accepted a sum of Rs.200/- from Sri Balakrishna Kanhar, a messenger on 1.12.89 for depositing the same in S.B.A/c. No.3031705 standing open one the name of Smt.Urmila Kanhar. Prior to this, deposit in the pass book had a balance, of Rs.400/- as on 8/9.8.89. He made necessary entry in the pass book noting the balance to Rs.600/- under his initial and impressed date stamp of 1.12.89 of Patangi B.O. in the pass book and returned the pass book. But the B.P.M. did not</p>	<p>for brother orders.</p> <p>7/3</p> <p>12 each.</p> <p>Process fee of Rs.5/- &amp; one copy of the application has not been filed.</p> <p>for brother orders.</p> <p>13/3</p>

Serial No. of Order	Date of Order	Order with Signature	Office note as to action (if any) taken on order
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take this deposit into account on 1.12.89 and shown depositing of Rs.20/- in the pass book and S.B. journal on 21.12.89 by putting 2 before 1 of the date scoring last zero of Rs.200/- shown as deposit by over writing the balance of Rs.600/- to 420/- and Sri Naik while working as EDBPM, Patangia B.O., Smt.Urmila Kanhar had applied/withdrawal of Rs.400/- from her S.B. A/c. No.3034705 on 15.12.90 by filing ~~wk~~ the withdrawal from (SB-&). But the BPM Sri Sarangdhar Naik paid Rs.100/- on 17.1.91, Rs.50/- on 30.1.91 and Rs.160/- on 25.2.91 which he did not account for. Also Sri Naik did not make entries of such withdrawals in the Pass book a/c. no.3034705 Shri Naik managed to collect one S.B. 7 form duly signed by the depositor Smt.Urmila Kanhar and utilised the said form for withdrawal of Rs.300/- on 14.1.91.

Thus by the said action the said Sri Sarangdhar Naik violated the B.O. rules and failed to maintain absolute integrity and devotion to duty as required under Rule 17 of E.D.As (Conduct and Service) Rules, 1964.

Article-II. Sri Sarangdhar Naik while working as EDBPM, Patangia B.O. in a/c. with Phiringia S.O. has accepted a deposit of Rs.20/- on 20.12.88 from Shri Biswanath Kanhar to deposit on his S.B.A/c. No.3033861 along with pay in sub. The B.P.M. in his presence has noted, the deposit into pass book, impressed the date stamp of Patangia B.O. under his initial and returned the Pass book to depositor. But the said Sri Sarangdhar Naik did not take this deposit into B.O. account on 22.12.88 or subsequently and misappropriated the amount.

By the above action, the said Sarang Naik, violated B.O. rules and failed to maintain absolute integrity and devotion to duty as required under rule 17 of P & T E.D.As (Conduct and Service) Rules, 1964".

or. No. 4  
dt. 14.3.95

A copy  
of the order  
dt. 14.3.95 may  
be given to  
the counsel  
both sides

Fatwa  
16/3 16.3.95

S. O.  
Receiving Com  
Smt. Urmila Kanhar  
20.3.95

Received copy  
on behalf of Supt. philar  
& order dt 14.3.95

A. K. S.  
23/3/95

MA. 1as/95  
at F.I.A' filed  
by the petitioner  
prayed for  
restoration.

copy of the  
MA. was not  
served on the  
respondent's  
counsel.

Fatwa  
28/3

3 enc

Serial No. of Order	Date of Order	Order with Signature	Office note as to action (if any) taken on order
		<p>After framing the aforesaid charges the applicant was put off duty w.e.f. 24.6.1991 on the allegation of misconduct. The Disciplinary Authority appointed the Inquiring Officer to enquire into the charges. The Inquiring Officer concluded the inquiry and held the charges proved. The Disciplinary Authority thereafter forwarded a copy of the findings of the Inquiring Officer, asking the applicant to submit his representation. The applicant submitted his representation and the Disciplinary Authority, after considering his representation and other relevant materials on record imposed the penalty of removal from service of the applicant. The applicant, thereafter, filed an appeal against the order of the Disciplinary Authority to the Appellate Authority, who vide order dated 3.8.1994 under Annexure-6 confirmed the order of punishment passed by the Disciplinary Authority and rejected the appeal filed by the applicant.</p> <p>Aggrieved by this, the applicant has filed this Original Application claiming the aforesaid reliefs.</p> <p>Respondents in their counter reply</p>	<p>9-8-0 8 R8-5/- 8 One copy of the petition was filed on 29.3.93 at 3. P.M.</p> <p><i>Sub 29/3</i></p> <p>Bench</p> <p>MA. 290/93- at fl. A filed by Mr. A.K. Khan Mr. Mishra prayed for time to file counter.</p> <p>COPY 8 MA. 290/93- 29/3/93 8 Applicant's Counsel.</p> <p><i>Sub 29/3</i></p> <p>Bench Counter not filed. For filing the orders.</p> <p><i>Sub 18/5</i></p>

8

8

(C)

OA 99/95

Serial No. of Order	Date of Order	Order with Signature	Office note a/c to action (if any taken on order)
		<p>have stated that the applicant, while working as EDBPM, Patangia B.O. was put off duty w.e.f. 24.6.1991 and thereafter proceeded against under Rule-8 of E.D. Agents (Conduct &amp; Service) Rules, 1964, because of certain irregularities. The irregularities were enquired by the Inquiring Officer and the charges were proved against the applicant. The Disciplinary Authority imposed the penalty of removal from service of the applicant and the appeal preferred by the applicant against the order of the Disciplinary Authority was also rejected. According to Respondents, the enquiry was held as per procedures laid down in accordance with the Rules and Instructions and the applicant was afforded full opportunity and was given an opportunity of being heard. Thus, the principles of natural justice, according to Respondents, were observed by them. In view of this submission, Respondents have prayed that the O.A. is liable to be dismissed as it does not merit consideration.</p> <p>Heard Sri B.S.Tripathy for the the applicant and Shri S.B.Jena, A.S.G. for the respondents and perused the</p>	<p>counter not filed. for further orders.</p> <p><u>PLB</u> 19/7/8</p> <p>Registrar</p> <p>order dt. 11.7.95</p> <p>Four weeks time is granted to file counter.</p> <p>Registrar</p> <p>counter not filed. for further orders.</p> <p><u>Sath</u> 12/8</p> <p>Registrar</p> <p>order dt 22-8-95</p> <p>counter by four weeks.</p> <p>Registrar</p>

Serial No. of Order	Date of Order
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Order with Signature

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records.

We are aware of the settled legal position that the Court/Tribunal cannot reappreciate the evidence and also cannot go into the quantum of punishment unless it shocks the conscience of the Court. In this case we find that the applicant was charged for misappropriating a sum of Rs.220/- for which extreme penalty of removal from service has been imposed on him. We find that the penalty imposed upon the applicant is disproportionate to the charges levelled against him. We are, therefore, of the considered view that the case of the applicant be remitted back to the Appellate Authority for reconsideration of the matter. Accordingly, we quash and set aside the order of the Appellate Authority dated 3.8.1994 under Annexure-6 and remit back the case to the Appellate Authority to consider the appeal/representation of the applicant, which will be filed by him within a period of four weeks from the date of receipt of a copy of this order, and thereafter the Appellate Authority will take a decision ~~on the~~ <sup>&</sup>

Counter not filed.

for further orders.

Sab

25/9

Regd  
order dt. 24-9-95

Counter be filed by 4 weeks. Filing which place before Bench for further orders.

S. Regd

Counter has not yet filed.

for further orders.

orders

S.D. 30/9

Branch

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(C)

Serial  
No. of  
OrderDate of  
Order

Order with Signature

Office note as to  
action (if any)  
taken on order

on the appeal/representation, as aforesaid, communicate the decision thereon within a period of three months from the date of receipt of such appeal/representation. We make it clear that in case it is decided to reinstate the applicant in service, no backwages shall be paid to him for the period from the date he is out of employment.

The O.A. is disposed of <sup>with</sup> in the aforesated observations and directions. There shall, however, be no order as to costs.

*W.B.*  
MEMBER (ADMINISTRATIVE)

*11/03/1982*  
MEMBER (JUDICIAL)

Line 11 may be seen  
RESC  
order to the  
Counter in 2nd  
Adt 19.03.82  
Copy of counter  
not served

For order

*1*  
18/3/82

Bd

For *W.B.*  
on memo

*1*  
2.2.82

Bd

free copy  
of the order  
dt. 11-3-82  
given to the  
both C.R.A.C.

*S.B.*  
14/3/82

*R.S.B.*