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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 663 OF 1996
Cuttack, this the 24th day of March, 2003

Lakshman Pradhan
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? Yes


(B.N. SOM)
VICE-CHAIRMAN

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CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 663 OF 1996
Cuttack, this the 24th day of March, 2003

CORAM:

HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN

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Sri Lakshman Pradhan, aged about 57 years, son of late
Godavari Pradhan, village/PO Chhatrapur, District Ganjam

..... Applicant

Advocates for the applicant -

M/s Sarat Kumar Mohanty,
Shanti Prasad Mohanty
P.K.Lenka

Vrs.

1. Union of India, represented by its Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Senior Superintendent of Post Offices, Berhampur (Gm) Division, Berhampur
760001
3. The Director of Postal Services, Berhampur (Gm) Region, Berhampur.
4. Chief Post Master General, Orissa Circle, Bhubaneswar 1

..... Respondents
Advocate for the respondents - Mr.B.Dash, ACGSC

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

Shri Lakshman Pradhan, formerly Sub-Post Master, Ganjam S.O., Berhampur Postal Division, has filed this Original Application, assailing the order of the Senior Superintendent of Post Offices, Berhampur Division, dated 22.9.1995 (Annexure 3) imposing penalty of recovery of Rs.7,500/- from his pay in 20 instalments and also against the order dated 4.6.1996 (Annexure 8) of the Director of Postal Services, Berhampur Region, confirming the order under Annexure 3.

2. The facts of the case, in brief, are that when the applicant was working as Sub-Post Master, Ganjam S.O., he was proceeded under Rule 16 of the CCS (CCA)Rules, 1965, for certain irregularities committed by him during his tenure as Deputy Post Master (SB), Chatrapur (Ganjam) Head Post Office. The proceeding under Rule 16 was initiated as per Annexure 1, alleging that the applicant was a subsidiary

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offender and that he was guilty of negligence/omission which facilitated commission of fraud in S.B. transactions by the Extra Departmental Sub-Post Master, Sabulia E.D.S.O. Three charges were framed against him as under:

"Charge No.I

The applicant while working as D.P.M., Chatrapur Head Post Offices had received Sabulia E.D.S.O. Savings Bank Account No.3275064 for posting of interest through L.C.IV of Chatrapur Head Post Office.

He put his initials in the ledger card of the said S.B.Account and in the Pass Book also in token of verification and posting of interest for 87-88, 88-89 and 89-90 on 11.3.1991.

But he failed to detect the temporary misappropriation of Rs.2000/- as the amount was though deposit of 4.7.88, was taken into account on 14.7.88.

Charge No.II

On 29.5.91 the applicant had received the Sabulia S.B.Account No.3275910 through the Ledger Assistant for interest posting and he initialed in the Pass Book and the ledger card in token of having posted the interest for 1990-91 by the ledger Assistant, but he failed to detect that Rs.550/- and Rs.800/- deposited on 1.10.90 and 19.10.90 as per the Pass Book were accounted for on 26.10.90 and 28.10.90 respectively. Thus he failed to detect the temporary misappropriation already committed by the S.P.M. on that account for the period from 19.10.90 to 28.10.90.

Charge No.III

That the applicant while working as Deputy Post Master, Chhatrapur S.O. received pay in slip in respect of

S.B.Pass Book Account No. 3275042 through the Ledger Assistant on 25.6.91, 27.7.91 and 29.8.91. But he failed to detect the difference balances of pay in slip and that of ledger card, as a result of which fraud committed in the pass book of Sabulia S.O. could not come to lime-light.

It is further stated in the charge sheet that the applicant has failed to follow the instructions contained in Rule 76(a)(1) of P.O. S.B. Manual, Vol. I. Thus, he has failed to maintain devotion to duty as required under Rule 3(i)(ii) and 3 of C.C.S. Conduct Rules, 1964."

The applicant had submitted his explanation dated 31.5.1996 wherein he had pointed out that he had carried out his duties strictly in accordance with Rule 76(a)(1) of P.O.S.B.Manual, Vol. I. He further pointed out that the temporary misappropriation of certain amount of deposits was committed by the E.D.S.P.M., Sabulia E.D.S.O. for short period in respect of S.B.Account Nos. 3275064 and 3275910 without any alteration of overall balance at credit of the said S.B.Accounts and there being no provision in the Rule to check the genuineness of the previous entries in the Pass Book at the time of posting of annual interest, the applicant had no scope to detect the said cases of temporary misappropriation, as alleged. Regarding charge No.III, his plea was that checking up of pay-

✓2 in-slip and ledger card is the duty of the Ledger Assistant and not of the Supervisor and to that extent the charge was untenable. He further stated that while in the chargesheet it is stated that the Department had sustained a loss of Rs.37,800/-, nowhere it has been specified how this figure was worked out and without specifically determining the amount of loss, their action to fix liability of Rs.7500/- on the applicant was arbitrary and unjust. The chargesheet was issued in violation of Rules 106 and 107 of the P&T Manual, Vol.I. As per Rules, penalty of recovery can be imposed on the Government servant only when it is established that the Government servant was responsible for a particular act or acts of negligence which caused the loss. He has further submitted that he had been reporting specific instances of fraud/bad work on the part of the EDSPM, Sabulia EDSO, to the concerned authorities from time to time, but unfortunately the authorities did not take any action on his reports which might have encouraged the EDSPM to indulge in fraudulent activities.

4. The Respondents, by filing the counter, have controverted some of the allegations made by the applicant and have partially admitted the submissions made at paragraph 4(7) of the Original Application.

5. I have heard Shri S.P.Mohanty, the learned counsel appearing for the applicant and Shri B.Dash, the learned Additional Standing Counsel appearing for the Respondent-Department and have perused the records placed before me.

6. The short point to be decided is, whether charge nos. I and II are not sustainable. In charge Nos.I and II it has been mentioned that the applicant failed to detect temporary misappropriation of Rs.2000/- in respect of S.B.Account No. 3275064 and temporary misappropriation of Rs.550/- and Rs.800/-in respect of S.B.Account No. 3275910 at the time the Pass Books were put up to him for posting of interest for the relevant year. The applicant, in his defence, has submitted that verifying the correctness of posting of interest and checking the date of transactions in the ledger card with reference to the

Pass Book are two different and distinct activities. The statement made by the applicant appears to be correct on a reading of the provisions of Rule 76(a)(1) of the P.O. S.B. Manual, Vol.I. The said Rule reads as follows:

“76.(a)(1) The balance in the pass book should be compared with the ledger balance at the time of posting of the interest. The interest should be added in the pass book and if there are any balances relating to transactions after the 31st March to be entered in the pass book, they should be entered by the Head Office before the pass book is returned to the S.O./B.O. The pass book should then be put up to the Postmaster along with the list of transactions and the ledger card. The Postmaster should himself compare the last balance entered in the pass book by the Sub or Branch Postmaster with the corresponding balance in the ledger card, initial the pass book and the ledger card in token of having made this comparison. The Postmaster should carefully see whether there are any suspicious erasures or alterations in any of the entries in the pass book since their last examination in the H.O. xx xx”

From the above provisions of the rule, the argument made by the applicant is well supported. The job of the Postmaster, at the time of posting of interest, is limited to checking the corresponding balance in the ledger card and initialing the pass book and the ledger card in token of having made these comparisons. It has been disclosed that there were no erasures

or alterations in any of the entries in the Pass Books and therefore, nobody could bring any blame on the applicant for any omission and commission in this matter. In other words, the question of detection of temporary misappropriation and verification of balance at the time of posting of interest are two different functions and should have been seen and dealt with accordingly by the Respondents and to this extent, I find the chargesheet defective and bad in law.

7. Regarding Charge No.III, the applicant's plea is that checking the balance in the pay-in-slip with that in the ledger card is the duty of the concerned Ledger Assistant and not of the Postmaster. This plea of the applicant has not been controverted by the Respondents in their counter. The disciplinary authority in his order at Annexure 3 has not dealt with the plea made by the applicant that as per Rule 31(iii) of the P.O.S.B. Manual, Vol.I it is the duty of the Ledger Assistant to compare the balance of pay-in-slip and the ledger .

8. The applicant, in paragraph 4(8) of the Original Application, has submitted that he had been reporting about the bad work on the part of the EDSPM, Sabulia EDSO. In support of this submission, he has submitted copies of the correspondence to the Senior Superintendent of Post Offices (Respondent No.2) on several occasions. From the said communications, it is clear that the applicant had taken initiative to alert the higher authorities to take action against the EDSPM, Sabulia EDSO and on that ground, he cannot be faulted. Neither the disciplinary authority nor the appellate authority had directly answered in their orders as to why the concerned authorities did not take action against that EDSPM. I agree with the applicant that had the Assistant Superintendent of Post Offices or the Senior Superintendent of Post Offices taken timely action, the misdeeds at Sabulia EDSO could have been checked long before. In the overall, I find that both the disciplinary authority and the appellate authority did not apply their mind properly to see the procedural points raised by the applicant in his

representation and went about to fix responsibility on him without due process of law. The administration should be more open and transparent to treat the malady where it appears and should definitely carry out a system check to find out inadequacies or loopholes and apply ^{Correct} solutions to upgrade the system, but should not mindlessly go on fixing financial responsibility on subsidiary offenders. One should see constructively and with a positive mind, whether it was possible on the part of the other functionaries at the Head Post Office or in the administrative office to check the fraud as soon as it had appeared and to see whether the failure was bona fide or mala fide and take preventive action only if the inactivity was on account of mala fide. However, if the inactivity was not mala fide, the administration should take corrective action, which alone would help revamp the system. In this particular case, as rightly pointed out by the applicant, the Department has not been able to pinpoint how the loss was determined at Rs.37,800/- and how liability of Rs.7500/- was put on the

applicant. As I see no application of mind in this case, I quash the impugned order of punishment of recovery of Rs.7500/- from the pay of the applicant as also the appellate order. It has been disclosed during oral arguments that the applicant has since retired from service. I, therefore, direct the Respondents to refund an amount of Rs.7500/- recovered from the pay of the applicant back to him within a period of thirty days from the date of receipt of copy of this order.

9. In the result, the Original Application succeeds. No costs.



(B.N. SOM)
VICE-CHAIRMAN