

Order dt.09.12.2002

Heard Mr.D.P.Dhalsamant, learned Counsel appearing for the Applicant and Mr.A.K.Bose, learned Senior Standing Counsel for Union of India, appearing for the Respondents.

2. The Applicant was Sub-post Master of Brajarajnagar Sub-post Office. Because of bad condition of the post house he was not residing therein under intimation to his authorities. On 28-29.03.1996 there was a theft in the said Sub-post office causing a loss (to the tune of Rs.65,525.85) to the Union Government. In the said premises, a disciplinary proceeding was initiated against him under Rule-16 of the CCS(CCA) Rules, 1965. After taking into consideration the representation of the Applicant, in reply to the notice, a fine of Rs.21,000/- was imposed on the Applicant. While preferring an appeal, the Applicant also rushed to this Tribunal in the present Original Application under Section-19 of the Administrative Tribunals Act, 1985.

3. It is the case of the Department that because the Applicant was not residing in the post house, adjacent to the Post office, there remained scope for theft. That apart, it is the case of the Department that the Applicant retained a huge amount of money (in excess of the maximum authorised amount), for which the Department/Govt. of India sustained huge loss. The Department, however, permitted the Applicant to retain a small amount of Rs.10,000/- (as a maximum) in the Post office.

4. It is the case of the Applicant that the post house meant for the use of the Sub-Post Master (as a quarters) was in a complete delapidated condition. Mr. Dhalsamant, learned Counsel appearing for the Applicant, took me through the materials placed on record, which goes to show that the Departmental authorities were fully conscious that the post house was in delapidated condition and unfit for human habitation; for

7
8

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

which they had requested the local authorities / owner of the building to get the same repaired and to provide security to the post house. The said request (for providing security) to the authorities of M/s Orient Paper Mills goes to show that the Departmental authorities were conscious about the insecured condition of the post house. Thus, no fault can be attributable to the Applicant for loss of money(in theft) merely because he was not in occupation of the Sub-post Master's quarters.

5. Coming to retaintion of more money (disproportionate to the maximum permissible amount) it is seen that the Department had fixed responsibility on two persons(one is Sub-Post Master, who is the present Applicant, and other one is the Treasurer of the said Sub-post office) While fixing the responsibility (to the tune of Rs.21,000/-) on the Sub-Post Master i.e., the Applicant; it fixed responsibility to the tune of Rs.15,000/- on the Treasurer. The said Treasurer approached this Tribunal in Original Application No.562/97; which was decided on 16.10.2000 by a Division Bench. In the said case, after due analysis, the Division Bench of this Tribunal came to a conclusion that instead of Rs.15,480/- ordered to be recovered, only of Rs.5,480/- should be recovered; because Rs.10,000/- as maximum was available to be kept in the Post office as cash in hand. This shows that, in the present case of the Sub-Post Master, only Rs.11,000/- should have been recovered from the Applicant. The Department/Disciplinary Authority have not specified the reasons as to why only Rs.21,000/- has been asked to be recovered from the Applicant.

6. The Applicant, in the present Original Application, has given an explanation that the excess money was to be deposited in the local branch of the State Bank of India and, as per previous arrangement, the cash

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18
6/11/03

6/11/03
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was being deposited in the noon of every day in the said Bank and, it is case of the Applicant that on 28.03.1996, a big amount was received in the Sub-Post Office concerned in the afternoon; as a result of which that excess amount could not be deposited in the State Bank of India. Such an explanation has not been accepted by the Respondents/Department. The views taken by the Department appears to be correct because the Applicant and the Treasurer should not have collected/received such a huge amount in the post office after the banking hours of the day and, therefore, the present Applicant as Sub-Post Master and the Treasurer are to be made responsible for the entire amount (in excess of what has been fixed as maximum permissible amount) retained by them in the post office. Since it has been disclosed in the para-6 of the counter of the Department that appeal of the Applicant is still pending instead of entering into merits, the matter is left to the Appellate Authority of the Department to determine the exact amount of cash to be recovered from the Applicant by giving reasons.

7. With the aforesaid observations and directions this Original Application is disposed of; requiring the parties to bear their own costs.

Y. Jaiswal
09.12.2002
(M. R. MOHANTY)
MEMBER (JUDICIAL)