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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 631 OF 1999
Cuttack, this the 6th day of July, 2000

Sri Bijoy Kumar Patnaik 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

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(G.NARASIMHAM)
MEMBER (JUDICIAL)

SOMNATH SOM
VICE-CHAIRMAN

6.7.2000

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 631 OF 1999
Cuttack, this the 6th day of July, 2000

CORAM:

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

.....
Sri Bijoy Kumar Patnaik, aged about 55 years, son of late
Sriharsha Patnaik, at present Deputy Post Master, Rourkela
Head Post Office, Pin-769 001

.....
Applicant

Advocates for applicant - M/s S.K.Mohanty
S.P.Mohanty
P.K.Lenka
S.K.Das

Vrs.

1. Union of India, represented by its Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Senior Superintendent of Post Offices, Sundargarh Division, Sundargarh-770 001.
3. The Director of Postal Services, Sambalpur Region, Sambalpur-768 001.
4. Chief Post Master General, Orissa Circle, Bhubaneswar

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Respondents

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

SOMNATH SOM, VICE-CHAIRMAN

In this application the petitioner has
prayed for quashing the order of punishment at Annexure-6.

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2. Facts of this case are that while the
petitioner was working as Sub-Post Master, Rourkela-5 S.O.
there was a theft in the Sub-Post Office in the night of
10.3.1998 causing loss to Government. Minor penalty
proceeding under Rule 16 was initiated against the
applicant. The charge is at Annexure-1. The applicant

submitted his explanation (Annexure-5) denying the charges. Senior Superintendent of Post Offices, Rourkela, after considering his explanation, imposed the punishment of recovery of Rs.8000/- from the pay of the applicant in eight equal monthly instalments of Rs.1000/- in his order dated 30.11.1999 at Annexure-6. The appeal dated 10.12.1999 (Annexure-7) of the applicant is pending. The applicant has stated that he has filed OA No.303 of 1995 against recovery of penal rent from his pay. While OA No.303 of 1995 is pending, the Director of Postal Services, Sambalpur, has modified the order of recovery of penal rent by converting the penal rent into damage rent. The applicant has stated that against this order of changing of penal rent to damage rent, the applicant has filed Contempt Petition No. 68 of 1997 in which notice has been issued. The applicant has stated that in view of initiation of contempt proceeding against Director of Postal Services arising out of OA No.303 of 1995, in the present appeal he does not expect justice from Director of Postal services and that is why he has come up in this petition with the prayers referred to earlier. The grounds urged by the applicant for quashing the order of recovery will be considered while discussing the submissions of the learned counsel of both sides.

S. J. Das

3. Respondents in their counter have opposed the prayer of the applicant. They have mentioned the factual position and referred to rules justifying the order of recovery. These aspects will be considered later in this order.

4. We have heard Shri S.P.Mohanty, the learned counsel for the petitioner and Shri A.K.Bose, the learned Senior Standing Counsel for the respondents and have also perused the records. Before considering the submissions of the learned counsel of both sides, the factual aspects can be noted.

5. There was a theft in Rourkela-5 S.O. in the night of 10.3.1998 and the thieves took away cash and stamps amounting to Rs.15,549.50. The closing balance of the Post Office on 10.3.1998 was as follows:

Cash	- Rs.7,233.55
Postage	- Rs.9510.00
Revenue Stamp	- Rs.1920.00
CRFS	- Rs.1390.00

The charge against the applicant is that he retained cash and postage stamp balance of Rs.7233.55 and Rs.9510/- respectively against "minimum" authorised balance of cash of Rs.2000/- and stamp of Rs.7000/- without any liability and by his above action the Department sustained a loss of Rs.15,549.50. It is stated that by his above action the applicant has violated Rule 102(B) of Postal Manual, Vol.VI, Part-III, which is at Annexure-2. The applicant in his explanation at Annexure-5 has pointed out that retention of cash balance of Rs.7233.55 was not in excess of the maximum cash balance fixed for the Post Office which is Rs.8000/-. He has stated that Rule 102(B) lays down that Sub-Post Master should not retain cash in excess of the authorised "maximum". He has also stated that there was liability of Rs.10,000/- which was shown on the reverse of daily accounts dated 10.3.1998 as also in the remarks

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column of S.O. Account Book. As regards retention of stamp balance the applicant hasstated that under Rule 42 of Appendix 3 of P& T Financial Hand Book, Vol.II (Annexure-4) the officer-in-charge of each Post Office is required to keep a supply of ordinary postage stamps for sale to the public sufficient for probable demands for one week. He has stated that daily average sale of stamp in the Post Office was more than Rs.2000/- and stamp sale figures for one week ending on 10.3.1998 is more than Rs.15000/-. In view of this, he has justified retention of stamp balance of Rs.9510/-. He has also stated that maximum balance of stamp was not revised keeping in view the average quantum of sale and that is why the amount of stamp balance in excess of the limit fixed had to be retained.

6. It has been submitted by the learned counsel for the petitioner that Rule 102(B) clearly lays down that as far as possible the Sub-Post Master must work with balances within the authorised limit and should not retain cash in excess of the authorised limit. The admitted position is that in respect of this Post Office the limit of cash was minimum Rs.2000/- and maximum Rs.8000/-. In view of this it has been submitted by the learned counsel for the petitioner that as the retained cash of Rs.7233.55 was within the maximum limit no liability should be fixed on the applicant for loss of cash due to theft. We are unable to accept this contention because Rule 31 enclosed by the applicant himself at Annexure-3 and respondents at Annexure-R/1 clearly lays down that liabilities of Sub-Office will comprise the total amount of Money Orders, warrants of payment and acquittance rolls remaining unpaid

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in the Sub-Office and in order that the Head Office may be in a position to know whether any funds will be required by the S.O. or whether the balance retained by it is justified by its outstandings, the Sub-Post Master must enter the total amount of his liabilities every day in the place provided for the purpose in S.O. daily account. From this it is clear that the total amount of liabilities for the next day has to be entered in the daily account. The applicant has shown in the daily account of 10.3.1998 liability of Rs.10,000/- for the next day. The disciplinary authority has taken the view that the applicant has failed to show the details of liabilities of Rs.10,000/- in the S.O. daily account and merely showing a round figure of liability of Rs.10,000/- is not adequate. It has also been mentioned in the counter that Rourkela-5 S.O. is a collection office where heavy amounts are collected everyday and normally the Sub-Post Master does not requisition cash from the Head Office. It has also been stated that in this case the Head Office and Sub-Office are located in the same station and therefore unlike a sub-office in a remote village the applicant has no difficulty in requisitioning cash from the Head Office as and when necessary. From the above discussion it is clear that Sub-Post Master is not authorised to retain cash upto the maximum limit even though there is no liability. Normally cash which is not required must be in the Treasury and not in the Post Office account. Rule 31 clearly lays down the manner of calculation of liabilities and a Sub-Post Master is required to keep cash sufficient for the purpose of discharging the liabilities of the next day.

Reading Rule 102(B) and Rule 31 together it is clear that retention of cash to meet the liabilities has to be justified by mentioning the liabilities on the reverse of the daily account. Rule 31 does not speak of giving details of liabilities only when they exceed the maximum limit of cash. From this it is clear that even below the maximum limit the Sub-Post Master has to justify retention of cash. The departmental authorities have held that retention of cash of Rs.7233.55 was unjustified and therefore they have held the applicant partly liable for this loss. After going through the order of the disciplinary authority, we find no reason to interfere in this aspect of the matter.

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7. So far as stamp account is concerned, the applicant has stated and the respondents in their counter have not denied that the departmental rules provide that sufficient stamp balance is to be retained by the Sub-Post Master to meet the demand of the public for seven days. The applicant's lapse in this regard has been held proved on two counts. Firstly, the limit of retention of cash was fixed at Rs.7000/- and the applicant has retained stamp balance of Rs.9510.00 in excess of this limit. It is necessary to note that for the stamp balance there is no maximum and minimum limit. There is one limit of Rs.7000/-. The other ground on which the applicant has been held liable on this account is that the disciplinary authority has rejected the explanation of the applicant that average daily sale of stamp in his post office is Rs.2000/- and in the week preceding 10.3.1998 the value of stamp sold was more than Rs.15000/-. This explanation has been rejected on the ground that the applicant in his explanation has not indicated the actual daily sale of stamp in the seven days

ending on 10.3.1998. We are unable to accept this ground of the disciplinary authority in rejecting the explanation of the applicant. The actual value of stamp sold in each day for seven days immediately preceding 10.3.1998 is a figure which is borne out by the record and could have been easily ascertained by the disciplinary authority, but he has failed to do so. The disciplinary authority has also not come to a finding that in the immediately preceding week the value of stamp sold was not more than Rs.15,000/-, as claimed by the petitioner. This is also a fact which was easily ascertainable. The disciplinary authority has taken the view that as the maximum limit was fixed at Rs.7000/- and as the applicant has retained stamp balance of Rs.9510/- he is liable for retention of excess stamp balance. We are unable to appreciate the logic of this. If as a matter of fact the average value of stamp sold daily was Rs.2000/- in that office, then it was incumbent on the part of the departmental authorities to increase the stamp balance to cover average daily requirement of seven days as required under the rules. In view of this, we hold that this aspect of the matter requires reconsideration by the disciplinary authority. We therefore direct that the disciplinary authority should ascertain the value of stamp sold in this office daily for seven days ending with 10.3.1998 and if it is found that average sale is Rs.2000/- daily and the total value is more than Rs.15,000/- for the week, then the amount of Rs.2510/- should not be recovered from the applicant. This exercise should be completed by the disciplinary authority within a period of thirty days from the date of receipt of copy of this order. Till that time the stay order issued by us on 20.12.1999 will be operative.

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8. In the result, the Original Application is disposed of in terms of the observation and direction above but without any order as to costs.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

SOMNATH SOMY
6.7.2000
VICE-CHAIRMAN

AN/PS