

ORDER DATED 14-01-2002.

Heard Shri G.K.Nanda, Learned Counsel for the Applicant and Shri A.K.Bose, learned Senior Standing Counsel appearing for the Respondents and perused the pleadings.

In this Original Application, the applicant has prayed for quashing the order dated 13.5.1998 at Annexure-1 initiating minor penalty proceedings against him under Rule-16 of the CCS(CCA) Rules. He has also prayed for quashing the order dated 19.2.1999 (Annexure-3) of the Disciplinary Authority imposing on him punishment of reduction of his pay by one stage from Rs. 4,500/- to 4,400/- in the time scale of pay of Rs. 4000-100-6,000/- for a period of one year w.e.f. 1.3.1999. In this punishment order it has also been mentioned that during the period of punishment he will earn increment and on expiry of the period, the reduction will not have the effect of postponing his future increment. Applicant has also prayed for quashing the order dated 27.3.2000 (Annexure-4) of the Appellate Authority rejecting his appeal.

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Respondents have filed counter opposing the prayers of applicant and applicant has filed rejoinder, after serving copy of the same on the other side.

For the purpose of considering this petition, it is not necessary to go into too many facts of this case. The admitted position is that minor penalty proceedings were

initiated against the applicant, while he was working as Postal Assistant, Jajpur Head Post Office, with regard to certain alleged lapses on his part, when he was working as PA, Sukinda Sub Post Office. It is alleged that some fraudulent withdrawals took place at Haripur-Jamadeipur Branch Post Office and the same were incorporated in the Sub Office Account. While dealing with the transactions the applicant did not take due pre-caution as required under Rule 33/6(iii) of Savings Bank Manual, Vol. I. After the explanation of the applicant, the punishment order as mentioned above, has been imposed and his appeal has also been rejected. As by the time the OA has been filed, the order of punishment and the appellate order have already been issued, the prayer for quashing the charge-sheet at annexure-1 has become infructuous and is rejected on the ground of having become infructuous. The only point for consideration is the prayer of applicant for quashing the annexure-3 and 4. It is necessary to note at this stage that in a Disciplinary proceedings, the Tribunal does not act as an Appellate Authority and can not reassess the evidence and come to a finding different to the findings arrived at by the Disciplinary Authority or the Appellate Authority. The Tribunal can interfere only if reasonable opportunity has not been given to the delinquent and if there has been violation of principles of natural justice or if the findings are based on no evidence or are patently perverse. Submissions made by the learned counsel

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for the applicant will have to be considered in the context of the above well settled position of law. It has been submitted by learned counsel for the applicant that the applicant was not supplied with copies of relevant documents and thereby he was prejudiced. Respondents in their counter have mentioned that the applicant did not ask for supply of documents and therefore, denial of opportunity to him does not arise. Applicant along with his rejoinder has enclosed at Annexure-R/5/1 a letter dt. 23.9.97 addressed by him to the supdt. of Post Offices, Cuttack North Division asking for copies of certain documents. On that basis, it is urged that documents asked for have not been supplied and reasonable opportunity has been denied. I have considered the submissions made by learned counsel for applicant carefully. The first point to be noted in this connection is that in the OA, the applicant has made no averment that he had asked for copies of documents and the same were denied. Only in one para of the grounds for the relief with legal provisions, he has mentioned that documents have not been supplied to him. The second aspect of the matter is that in this case, disciplinary proceedings were initiated against the applicant in letter dated 13.5.1998 and in response to this, the applicant submitted his explanation on 5.6.1998. This letter, through which the applicant asked for certain documents is dated 23.9.1997 even before initiation of disciplinary proceedings against him. In view of this, it can not be said that the applicant did ask for certain documents after the disciplinary proceedings were initiated against him.

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Lastly, this letter dated 23.9.1997 even though in possession of the applicant, has been produced only with the rejoinder and the respondents did not get an opportunity to reply to this. In consideration of all the above, I hold that the applicant did not ask for supply of documents after the disciplinary proceedings were initiated against him and therefore, his plea that ^{because of} ~~that~~ non-supply of documents, principles of natural justice has been violated is not acceptable and is accordingly rejected. Moreover, even if the documents were asked for and not supplied, that it-self would not result in the quashing of the order of punishment. The applicant has to say as to how by not supplying of the specific documents, he has been prejudiced. There is no mention in this regard in the OA. No submission specifically has been made on this point during hearing also. In view of this I hold that rules of natural justice has not been violated in this case. This contention is accordingly rejected.

J. J. J.

The only other contention of the learned counsel for the applicant and this is also the sole contention raised in the averment of the OA that in this case, all the three withdrawals amount were Rs. 500/- or less and as EDBPM has sanctioned and released the withdrawals, the applicant was not required to verify the specimen signature at the time of incorporating the transactions in the records of the Accounts Office. Learned counsel for both sides have relied on and annexed the relevant rules. Learned counsel for the applicant has relied on Rule 30(6)(i). It is not necessary to refer to the details of the rules because in this rule at the beginning it is specifically mentioned

that this relates to withdrawal at Branch Offices. Instant case is one of withdrawal at Branch Office but the applicant has not been charged with any lapse with regard to the withdrawals. The charge at Annexure -1 is ~~with~~ regard to the alleged lapses in the matter of incorporating these authorised at BO withdrawals/in the records of the Accounts Office. There are detailed instructions as to the steps which are to be taken when a withdrawal already made in the Branch Office are to be incorporated in the records of the Accounts Office. The relevant rule is 33(6)(iii) which is quoted below:

*(iii) warrants of payment for withdrawals at the Branch Offices will be received at the account Office with entry of details of the transactions on the reverse of the daily accounts. The savings bank Assistant should (a) compare the signature on the warrant of payment with that on the application for withdrawal and the specimen signature of the depositor, unless already done in the case of withdrawal above Rs. 500/- at the time of sanction of the application; (b) satisfy himself that the amount of the warrant is charged against the item *SB withdrawals* in the branch office daily account; (c) enter the withdrawal in the list of transactions noting the name of the branch office in the remarks column against the actual date of payment; (d) make an entry of the transaction in the ledger and (e) enter the date of withdrawal in the register (SB-45) in case of warrant above Rs. 500/-.

J. J. J.

It has been submitted by learned counsel for the applicant that as in this case the amount was Rs. 500/- and less and withdrawals were made by the BO and the EDBPM had presumably verified the specimen signature, he was not required to verify the specimen signature. I am not prepared to accept the above proposition because sub rule (iii) extracted by me above, specifically provides that the savings Bank Assistant should compare the signature on the warrant of payment with that on the application for withdrawal and the

specimen signature of the depositor, unless already done in the case of withdrawal above Rs. 500/-, at the time of sanction of the application. This specifically provides that in respect of withdrawals of amount of Rs. 500/- and below, allowed by BO and at the time of incorporating the transactions in the records of the Account Office, the Savings Bank Assistant is required to compare the specimen signature. Admittedly, this was not done by the applicant. Learned Counsel for the applicant has mentioned that withdrawals above Rs. 500/- are to be sanctioned by the Account Office and at that time of sanction the specimen signature are to be verified. In the instant case, three withdrawals were Rs. 500/- and below and at the time of incorporating of the withdrawals in the records of the Account Office, the concerned Assistant was required under the above rule, to verify the specimen signature. In view of the above, I do not think that the findings of the disciplinary authority with regard to the lapse of the applicant is based on no evidence or is patently perverse. In consideration of the above, I find no ground to interfere with the order of the Disciplinary Authority and the Appellate Authority.

In the result, the Original Application is held to be without any merit and the same is rejected. No costs.

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VICE-CHAIRMAN 002

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Free copies of final
order dt. 14.1.02 issued
to counsel for both sides.

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S.O.D.