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or. 21. 7. 3. 05

for further hearing
as P/H.

Ansor. 21. 8. 4. 05

Copies of order
prepared for counsels
for both sides

W 13/10
S-10Order dated 8.4.05

This O.A. has been filed by Shri Natha Kumbhar being aggrieved by the order of the Disciplinary Authority dtd. 22.5.03 imposing on him the recovery of sum of Rs.15,000/- on account of loss caused to the Department under Rule 12(2) of CCS (CC&A) Rules, 1965.

Being aggrieved, applicant has filed an appeal (Annexure-A/4) dtd. 5.7.03 before the Director of Postal Services, Sambalpur Region praying for quashing the order of recovery imposed on him. As his appeal has not been disposed of, he has filed this O.A. seeking relief as stated above.

I have heard Mr. T. Rath, Ld. Counsel for the applicant and Mr. U. B. Mehapatra, Ld. Sr. Standing Counsel for the Respondents.

In the midst of the hearing, the Ld. Sr. Standing Counsel, by filing a Memo No. ST/RO/ 10-37/2003 dtd. 25.3.05, submitted an order passed by the Appellate Authority on the applicant's appeal dtd. 5.7.03 quashing the order of recovery of Rs.15,000/- imposed on him by the Disciplinary Authority on the ground that the bag under reference was received in torn/damaged condition in that office and that nowhere it was the case of the prosecution that the applicant was either responsible for the damaged / torn condition of the bag or that he had misappropriated the amount of Rs.15,000 stated to have been kept in the cash bag. He had also held that nothing could be conclusively proved to the effect that the applicant was

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directly or indirectly responsible for the loss of the money from the cash bag or less caused to the department. However, considering the role and responsibility of the applicant, the Appellate Authority reduced the punishment on the applicant to that of Censure. As the Appellate Authority, after due consideration of the facts and circumstances of the case, has, by a reasoned order, decided that the applicant was not responsible for the loss caused to the Department and therefore quashed the order of recovery of Rs.15,000/- on him, the relief sought for in this O.A. has been and fully met to that extent, this O.A. has become infructuous. However, the Appellate Authority has imposed the punishment of Censure which is however, a different matter and it is for the applicant to seek departmental remedy if he would feel aggrieved by the order.

Having regard to the above facts and circumstances of the case, this O.A. is disposed of being infructuous.

The Appellate Authority by its order dtd. 25.3.05 although reduced the punishment already, ^{imposed} by the disciplinary authority from recovery of Rs.15,000/- to that of censure, ^{not} it has been explicitly ordered that the amount already recovered from the applicant should also be refunded to him with the passing of the order referred to above. Needless to order that the Respondents will refund the amount ^{to the applicant to the} within 90 days from the receipt of this order, if not already effected. Vice-chairman *Sub* *874*