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O.A. No. 149 of 2005.

Order dated: 13.02.2007

The case in brief is that while the Applicant was working as Savings Certificate Counter Assistant at Jharsuguda HO during the period from 18.11.1991 to 17.06.2000 he illegally issued NSCs on 22.08.1996 for Rs.95,000/- in the name of M/s Utkal Engineering Enterprises, Jharsuguda. on 22.08.1996 in supersession of the prohibition made by the Government of India, Ministry of Finance, Department of Economic Affairs in Notification GSR 120 (E) dated 08.03.1995 to the extent that no NSCs shall be issued in the name of Company, Institution, Firm, Local body and Corporate Body with effect from 01.04.1995. For this irregularity, along with the applicant Shri Mahadev Meher, Deputy Postmaster, Jharsuguda Head Post Office was issued with a memo dated 03.04.2002 (Annexure-A/1), under Rule 16 of the CCS (CC&A) Rules, 1965 asking him to show cause within a period of ten days. After considering the representation furnished by the Applicant, he was issued with the order of punishment under Annexure-A/3 dated 18th July, 2003 for recovery of an amount of Rs.48,462.50. Similar punishment was also awarded to the Deputy Postmaster vide order dated 14.07.2003. The Applicant preferred appeal before the appellate authority and the same

having been rejected, he has filed this Original Application praying to quash the order of punishment as also the order of the Appellate authority under Annexure-A/3 and A/5.

2. Respondents have filed counter taking the same stand as had been taken in O.A. No.582/05 disposed of on 17<sup>th</sup> January, 2007.

3. Factual aspects of the matter are not in dispute but it has been stated by the Respondents in the reply filed in this case that as per the Notification issued by the Government of India, Ministry of Finance (Department of Economic Affairs) under No.MOF (DEA) Notification GSR 120 (E) dated 08.03.1995 issue of NSCs in the name of company, institution, firm, local body and corporate body was prohibited with effect from 1.4.1995. The said notification was circulated to all concerned including the Postmaster, Jharsuguda HO by the Respondent No.4 vide letter dated 24.03.1995. In spite of the prohibition, the applicant in his capacity of Savings Certificate Counter Assistant allowed issue of NSCs (VIII issue) amounting to Rs.95000/- in the name of M/s. Utkal Engineering Enterprises, Jharsuguda on 22.08.1996. The aforesaid NSCs were initially pledged to Superintending Engineer, GRID Corporation of Orissa Ltd, Bhubaneswar and were subsequently released. The Firm again applied for pledging of the

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aforesaid NSCs in favour of United Bank of India, Jharsuguda but the Postmaster, Jharsuguda HO denied to pledge the same since these were issued irregularly in contravention of rules. The Firm was also asked to exercise option to encash the NSCs on simple interest at SB A/c rate, but the Firm declined to accept SB rate of interest. Consequently, the settlement of the claim of the Firm was delayed. Being aggrieved, Shri Mukesh Kumar Agrawal, one of the partners of M/s. Utkal Engineering Enterprises filed CD Case No. 19/2002 before the DCDRF, Jharsuguda. The Learned DCDRF, Jharsuguda in its order dated 16.12.2002 directed the Postal Department to pay the maturity value of the NSCs and Rs.500/- towards the cost of litigation. It has been pointed out that on receipt of the aforesaid order, the Respondent No.4/Disciplinary Authority of the Applicant moved his higher authority seeking further instruction and received direction of the higher authority to the extent that the judgment of the CD Forum should be implemented and the amount be recovered from the official at fault. As the Applicant who was working as the supervisor and Shri Balabhandra Kumara who was working as the Counter Assistant at Jharsuguda HO on the date of occurrence of the alleged irregularity were held responsible for the loss incurred by the Department, they were proceeded against under Rule 16 of CCS (CCA) Rules, 1965. In accordance with the Rules, they were issued

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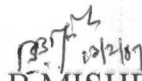
with the order of punishment of recovery after following due procedure of rules and giving him adequate opportunity to defend their case. They have submitted that since there was no infraction of rules nor principles of natural justice have been violated, the order of punishment needs no interference.

4. Having heard Learned Counsel for both sides, perused the materials placed on record. During hearing, Learned Senior Standing Counsel while reiterating the stand taken in the Counter has argued that since heavy loss was sustained by the Department by way of payment of interest etc. for the mistake of the Applicant, the recovery was rightly ordered by the authorities which needs no interference.

5. I find that for this incident the recovery was ordered from the applicant as also from Shri Mahadev Meher, who was working as Deputy Postmaster of Jharsuguda Head Post Office. Shri Meher challenged the order of punishment of recovery in OA No. 582/2005. In the said OA besides other grounds since it was found that except the plea that there was loss to the Government, no logical explanation was given as to how the Department sustained the loss, the order of recovery imposed on him was quashed. I, therefore, find no reason to make a departure from the view already taken in the aforesaid matter.

6. In view of the above the impugned order under Annexure-A/3 dated 18.07.2003 and the order under Annexure-A/5 dated 24.03.2005 are hereby quashed.

7. In the result, this OA stands allowed by leaving the parties to bear their own costs.

  
(B.B.MISHRA)  
MEMBER (A)