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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

Original Applications No.414/2012

Jodhpur, this the 15th February, 2013

[Reserved on 08.02.2013]

CORAM

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J) and
Hon'ble Ms. Meenakshi Hooja, Member (A)**

Jasraj Meghwal S/o Shri Kika Ram, aged about 51 years, by caste Meghwal (SC), R/o Village & Post Sadari, District Pali (Office Address: working as Postal Assistant, Post Office, Falana).

.....Applicant.

(Through Adv. S.P.Singh)

Versus

1. Union of India, through the Secretary, Government of India, Ministry of Communication, Department of Post, Dak Tar Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur-302007.
3. The Director, Postal Services, Western Region, Jodhpur.
4. Superintendent of Post Offices, Pali Division, Pali.

.....Respondents

(Through Adv. Vinit Mathur)

ORDER

Per: Justice K.C. Joshi :

By way of this application, the applicant has sought the following relief (s):

"(a) that the impugned order Memo STA/WR/44-A/02/07 dated 30.03.2007 (Annexure-A/1) passed by respondent No.3 and Memo No.B-642/05-06/II, dated 31.10.2006 forwarded by respondent No.4 (Annexure-A/2) may kindly be declared illegal, unjust and improper and deserves to be quashed and set aside.

(b) that the respondents may kindly be directed to refund the recovered amount with interest.

(c) that any other direction or orders may be passed in favour of the applicant, which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.

(d) that the costs of this application may be forwarded to the applicant"

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2. The brief facts of the case are that the applicant Shri Jasraj Meghwal, was initially appointed as a Postal Assistant in Udaipur Division on 20.07.1979.

3. As brought out in the reply while working as Postal Assistant Fateh Nagar on 17.07.1990, 25.08.1990 and 13.01.1991, the Savings Bank Accounts Agent approached to Fateh Nagar P.O. and asked for purchase of 58 Kisan Vikas Patras of amounting to Rs.90,000/- in the Joint Account in the name of individual and Secretary Krishi Upaj Mandi Samiti, Fateh Nagar. The applicant issued four Kisan Vikas Patras of Rs.8,000/- on 17.07.1990, 23 Vikas Patras of Rs.37,000/- on 25.08.1990 and 21 Kisan Vikas Patras of Rs.45,000/-. After verifying the entries made by the applicant, Shri B.L. Samer, then S.P.M., signed all the KVPs and issued journal and returned them to the applicant, who delivered the same to the Agent.

4. The issuance of KVPs was treated as irregular under the provisions of Rule 6 of the Kisan Vikas Patra, Rules, 1988. However, the Department also sent a proposal to the Ministry of Finance and Economic Affairs for their regularization but, the Ministry of Finance and Economic Affairs vide its dated 06.12.1999 decided that only invested value of the certificates be paid to the holders. However, the investor approached the District Consumer Forum, Udaipur, who ordered to pay the amount of interest with up to date payment.

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5. Against that order of the District Forum, the Department preferred an appeal before the State Consumer Disputes Redressal Commission, who ordered to make payment, in compliance of the order passed by the District Forum and, therefore, the Department had to pay Rs.2,78,644/- The Department sustained a loss of Rs.1,88,644/- and held the S.P.M. and PA (the applicant) both equally responsible for this loss caused to the department.

6. It has also been mentioned that when the present applicant was asked vide order dated 22.12.2004 of the Senior Superintendent of Post Offices, Udaipur to deposit half of the loss amount, the applicant preferred an O.A. No. 247/2005 before this Tribunal, who vide its order dated 05.09.2006 quashed the order dated 04.01.2005 and ordered that the respondents are at liberty to take any action as per rules after putting the applicant on notice. Thereafter, the disciplinary proceedings were initiated against the applicant and after issuing a chargesheet and hearing the applicant and perusal of the representation of the applicant, a decision was taken vide Memorandum dated 31.10.2006 (Annex.A/2) to recover half of the loss amount from the salary of the applicant.

7. This order was challenged in appeal by the applicant and the same was also rejected vide letter dated 30.03.2007 (Annexure-A/1). Hence, the OA has been preferred against Annex.A/1 and Annex. A/2 which are the orders in the disciplinary proceedings by the Post

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Master General, Rajasthan Western Region, Jodhpur dated 30.03.2007

and Superintendent of Post Offices, Pali Division dated 31.10.2006.

8. The counsel for the applicant also referred to us a certified copy of the order of this Tribunal dated 01.12.2010 passed in OA No. 81/2009 which in the case of Shri Bheru Lal Samar, (who was the then Sub Post Master in the issue of the same KVP's under dispute and on whom the responsibility for half of the payment of loss was fixed) has set aside the order of the Department passed in his case .

9. The arguments were heard. During the arguments, it was emphatically contended by the counsel for the applicant that the respondents did not issue any notice of irregularity at the time of issue of KVPs which was in the years 1990 and 1991. It is only when the holders of the KVPs approached the District Consumer Forum, the Department started taking action. Moreover, the Department itself moved to the Ministry of Finance and the Economic Affairs for regularizing the issue. The correspondence shows that the Department itself was not clear how the Rule 6 has been violated a charge on the basis of which disciplinary proceedings were initiated and conducted. Moreover, the money was kept in the Government account and it has also earned interest. The payment as per order by the District Consumer Forum and upheld by the State Consumer Commission cannot be the responsibility of the applicant and therefore, the Annexs. A/1 and A/2 be quashed. Counsel for the

applicant further strongly contended that action of the respondents to deny the payment of the amount due towards the deposit taken and remaining with it 14 years is arbitrary one and for that the applicant could not have been held liable to make payment of the so called loss caused to the department solely on the ground of delay on the part of the department in refunding the amount of the investor.

10. The counsel for the respondents argued that the Rule 6 of Rule 6(2) of Kisan Vikas Patra Rules, 1988 has been violated as the KVPs could not have been issued to the concerned persons and disciplinary proceedings have taken place in accordance with due procedure. Further, the counsel for the respondents vehemently defended the order of the respondents and contended that the loss caused to the department was due to the irregular act of the applicant, therefore, the impugned order is sustainable.

11. We have considered the rival contentions of both the parties. The interest or the penal interest, if at all imposed, had been an avoidable liability had the Department taken timely action in the matter, which it did not do so as evident from Annex.A/3. In any case, it had merely been a matter of doubt or dispute about the classification of KVPs and this is clearly borne out from the communications exchanged in the department that the things were not clear about the interpretation of rules regarding issuance of the certificate as could be seen from Annex.A/5. The refusal to repay the money by department after using the money of the investors for 14

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years from 1990-2004 is patently un-justified. As far as clarification about Rule 6(2) is concerned regarding Joint A Type Certificate, it would have been preferable for the Department to have taken a prompt action if it found that the KVPs have been issued in an irregular manner. Merely, a belated decision based on the decision of the Consumer Forum and recovery of penalty from the applicants does not appear to be logical or just or in accordance with rules.

12. We are also assisted in our view by the judgment of the Hon'ble High Court in *D.B.C.W.P. No. 2174/2001, UOI & Ors vs Bheru Lal Samar*, who was at the relevant time working as Sub-Postmaster and was held contributory liable for the same amount with regard to the same KVPs issued by the same post office.

13. Therefore, the impugned orders Annexure A/1 dated 30.03.2007, and Annexure A/2 dated 31.10.2006 are declared illegal and both the order are quashed and set aside.

14. It is further directed that if any amount has already been recovered from the applicant, the same shall be returned to him alongwith interest @ 9% per annum within a period of three months from the date of receipt of a copy of this order. Accordingly, the OA is allowed with no order as to costs.


(MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER


(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

Original Applications No.349/2012 with
Misc. Application No. 180/2012
Jodhpur, this the 2nd February, 2013

[Reserved on 13.02.2013]

CORAM

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J) and
Hon'ble Ms. Meenakshi Hooja, Member (A)**

Jasraj Meghwal S/o Shri Kika Ram, aged about 52 years, by caste
Meghwal (SC), R/o Village & Post Sadari, District Pali (Office
Address: working as Postal Assistant, Post Office, Falana).

.....Applicant.

(Through Adv. S.P.Singh)

Versus

1. Union of India, through the Secretary, Government of India,
Ministry of Communication, Department of Post, Dak Tar
Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur-
302007.
3. The Director, Postal Services, Western Region, Jodhpur.
4. Superintendent of Post Offices, Pali Division, Pali.

.....Respondents

(Through Adv. Vinit Mathur)

ORDER

Per: Meenakshi Hooja, Member (A) :

In the present OA the applicant has challenged the impugned
order Annex.A/1 dated 12.05.2011 which is the order of the appellate
authority upholding the penalty order dated 15.07.2010 Annex.A/2 for
recovery of Rs. 61,157/- in view of irregular issue of Kisan Vikas
Patra (KVP) in the years 1990 and 1991 while working as Postal
Assistant Fatehnagar.

2. In this context, it is pertinent to note that in OA No. 414/2012
filed by the same applicant, the issue regarding issuance of similar
irregular KVPs was raised. After due consideration of all facts,
circumstances and hearing the parties, this Tribunal vide its recent
order dated 15.02.2013 set aside the orders of the appellate authority
dated 30.3.2007 and the order of the disciplinary authority dated
31.10.2006 with the following directions :

“13. Therefore, the impugned orders Annexure A/1 dated 30.03. 2007, and Annexure A/2 dated 31.10.2006 are declared illegal and both the order are quashed and set aside.

14. It is further directed that if any amount has already been recovered from the applicant, the same shall be returned to him alongwith interest @ 9% per annum within a period of three months from the date of receipt of a copy of this order. Accordingly, the OA is allowed with no order as to costs."

3. In the present OA 349/2012 the applicant on 17.07.1990 and on 07.08.1991 issued total 11 Joint 'A' type KVPs amounting to Rs. 33,000/- Joint 'A' type in the name of Shri Govind Singh Hada and Shri Sachiv Krish Upaj Mandi, Fatehpur which were alleged to be in contravention of Rule 6 of the K.V.P. Rules, 1988 and for which he was chargesheeted and issued penalty order for recovery of Rs. 61,157/- (Annex.A/2) upheld in the appellate order (Annex.A/1). As we have already covered issue of similar types of KVPs in OA No. 414/2012 and given a detailed judgment based on facts, arguments and legal position, hence in the light of the judgment dated 15.02.2013 in OA No. 414/2012 the present case is decided as under :-

(i) The impugned orders Annexure A/1 dated 12.05.2011 and Annexure A/2 dated 15.07.2010 are declared illegal and both the orders are hereby quashed and set aside.

(ii) It is further directed that if any amount has already been recovered from the applicant, the same shall be returned to him alongwith interest @ 9% per annum within a period of three months from the date of receipt of a copy of this order.

4. In the above context, the M.A. No. 180/2012 regarding condonation for delay is also allowed for the reasons averred in the application.

5: A copy of the aforesaid decision be kept in the file of OA No. 414/2012 and a copy of this order of OA No. 349/2012 be kept in OA No. 414/2012 also. Accordingly, the OA is allowed with no order as

to costs.

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**(MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER**

Jrm

**(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER**