

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application Nos.143, 144 & 145 of 2012

Jodhpur this the 12th day of July, 2013

CORAM

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

Nathu Lal Vasita S/o Late Shri Champa Lal Vasita, aged about 45 years, R/o H.No.10, New Sadri Colony, Nayio ki Talai, Udaipur-313001, at present employed on the post of Postal Assistant, Udaipur Head Post office, Udaipur-313004.

.....**Applicant in OA No.143/2012**

Neeraj Tak S/o Shri Harish Chandra Tak, aged about 40 years, R/o 2-Cha-4, Shanti Nagar, Hiranmagri, Sector-5, Udaipur 313002, at present employed on the post of Sub Postmaster Udaipur Station Road Post Office, Udaipur-313001.

.....**Applicant in OA No.144/2012**

Ramesh Bhati S/o late Shri Ram Chandra Bhati, aged about 40 years, R/o 21, Tekari, Udaipur-313002, at present employed on the post of Office Assistant, in the O/o Sr. Supdt. of Post Offices, Udaipur. Division-313004.

.....**Applicant in OA No.145/2012**

(Through Advocate Mr. J.K.Mishra)

Versus

1. Union of India through Secretary to the Government of India, Departments of Posts, Ministry of Communications & IT Dak Bhawan, Sansad Marg, New Delhi-110001.
2. Senior Superintendent of Post Offices, Udaipur. Division, Udaipur.
3. The Postmaster, Udaipur Head Post Office-313004.

.....**Respondents**

(Through Advocate Smt. K. Praveen)

ORDER (Oral)Per Justice K.C. Joshi, Member (J)

This order will govern the disposal of three cases bearing OA No.143/2012, 144/2012 and 145/2012 filed by Shri Nathu Lal Vasita, Neeraj Tak and Ramesh Bhati respectively. We are deciding all these three cases by a common order for the reason that the applicants in all these three OAs have been punished by the Disciplinary Authority for the same misconduct committed on account of fraud and misappropriation of the money while working in Postal Division, Udaipur. The charges were framed against all these three applicants. In OA No.143/2012 Shri Nathu Lal Vasita was charged that he failed to obtain the proper order of Postmaster before cash remitted to Fatehpur SO on the dates mentioned in the charge sheet against line limit of Rs.50,000/-, and the dates were between 12.08.2009 to 26.07.2010, and by the said irregularity of Nathu Lal Vasita, Shri Pankaj Kumar Nigam, the then Sub Postmaster, Fatehpur, misappropriated of government money resulting cause of loss to the Department. In OA No.144/2012, Shri Neeraj Tak was charged for the remittance of the different amount beyond the line limit of Rs.50,000/- for Fatehpur SO on different dates between 13.01.2010 to 26.07.2010 and thus due to his negligence Shri Pankaj Kumar Nigam, the then SPM Fatehpur, misappropriated the Government money resulting cause of loss to the Department. In OA No.145/2012 Shri Ramesh Bhati was charged to remit the amount beyond the line limit of Rs.50,000/-

between the dates 12.08.2009 to 21.12.2009 and due to said negligence Shri Pankaj Nigam, the then SPM misappropriated of government money resulting cause of loss to the Government. Thus, the charges against Shri Nathu Lal Vasita (OA No.143/2012) are that he violated Rule 20 of PO Manual Volume-VI Part-III, and Shri Neeraj Tak (OA No.144/2012) violated Rule 9 and 20 of the Post Office Manual Volume-VI part-III and against Shri Ramesh Bhati (OA No.145/2012) violated Rule 9 of PO Manual Volume-VI Part-III. The charges were framed under Rule 16 of the CCS (CCA) Rules, 1965 and each of them have been punished by the penalty of recovery i.e. from Nathu Lal Vasita and Neeraj Tak (OA No.143/2012 & 144/2012 respectively) is of Rs.3,99,996/-, and Rs.3,99,997/- respectively and from Ramesh Bhati (OA No.145/2012) is of Rs.1,66,666/-.

2. By way of these OAs the applicants challenged the legality of the orders at Annexure-A/1 and A/2 in their respective OA's i.e. charge sheet and the order of recovery.

3. It has been averred in these OAs that the penalty imposed by the disciplinary authority is not as per the provisions of law and without there being any specific finding regarding the loss caused by the applicants, they have been punished by the disciplinary authority for recovery of certain amounts and also there is no specific finding in the recovery order that how much loss has been caused, and therefore, no such recovery can be made by the

respondent department in pursuance to the order at Annexure-A/2.

The applicants have also averred that they have been charged for remitting more than Rs.50,000/- in a single transaction whereas there is no limit while remitting the amount in sealed packet therefore the following reliefs have been sought by the applicants in all these three OAs:-

- (i) *That impugned charge sheet dated 27.04.2011 (Annexure-A/1), penalty order dated 30.03.2012 (Annexure-A/2), imposing the penalty of recovery (Rs.3,99,996 in OA No.143/2012, Rs.3,99,997 in OA No.144/2012 and Rs.1,66,666/0 in OA No.145/2012), passed by 2nd respondent may be declared illegal and the same may be quashed. The respondents may be directed to allow all consequential benefits including refund of any amount deducted from his salary, if any, as if the impugned orders were never in existence.*
- (ii) *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.*
- (iii) *That the costs of this application may be awarded."*

4. By way of reply, the respondent department averred that the recovery order passed by the competent authority is as per rules and the applicants failed to discharge their duties in a proper way and due to the negligence attitude of the applicants, Shri Pankaj Kumar Nigam, the then Sub Postmaster, Fatehpur, misappropriated a large amount and thus each of the applicant was found guilty for the negligence and violation of the certain Rules of the Post Office Manual Volume-VI Part-III. It has been averred in the reply that the applicants have been afforded full opportunities to defend their case and the penalty was imposed due to negligence on the part of the applicants as they were identified as subsidiary offender in the

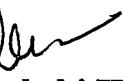
case. Therefore the order passed by the Disciplinary Authority under challenge cannot be said to be illegal, irregular or against the provisions of law.

5. It has been specifically further averred in the reply that the applicant failed to avail the opportunity of filing of the appeal against the order of the respondent No.2 before the Director Postal Services, Southern Region, (DPS-SR) Ajmer and without exhausting the remedy of the appeal available under the Rules, the applicants approached this Tribunal, therefore all these three OAs are not maintainable.

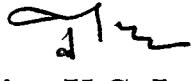
6. Heard both parties. Counsel for the applicants admits that the appeal against the impugned order has not been filed by the applicants and they directly approached this Tribunal. It is also admitted fact that there is a provision of appeal, which could be availed by the applicants against the impugned order.

7. In view of these facts and circumstances, we are proposing to dispose of all these OAs with a direction to the applicants to file appeal as per the relevant rules to the Appellate Authority. Accordingly, all these three OAs are disposed of with a direction that if the applicants file appeal against the impugned order within a period of one month from the date of receipt of this order, then such appeal shall be treated in limitation and further the concerned authority of respondent department is directed to decide the appeal

within a period of four months from the date of submitting of such appeal. Meanwhile, till disposal of the appeal, the operation of the impugned order at Annexure-A/2 in each OA case shall remain stayed. No order as to costs.



**(Meenakshi Hooja)
Administrative Member**



**(Justice K.C. Joshi)
Judicial Member**