

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00142/16 with MA 290/00128/16

Jodhpur, this the 5th day of July, 2016

CORAM

Hon'ble Ms Praveen Mahajan, Admn. Member

Surendra Maini S/o Shri Gyan Chand Maini, Aged about 58 years, b/c Khatri, R/o 46 Model Colny, Near City Hospital, Jawahar Nagar, Sriganganagar, District – Sriganganagar. (Working as Assistant Postmaster at Hanumangarh HO under Postal Department)

.....Applicant

By Advocate: Mr S.P. Singh.

Versus

1. Union of India through the Secretary, Government of India, M/o Communication Department of Post, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur.
3. Postmaster General, Rajasthan Western Region, Jodhpur.
4. The Director of Postal Services, Western Region, Jodhpur.
5. Superintendent of Post Offices, Sriganganagar Division, Sriganganagar.

.....Respondents

By Advocate : Mr K.S. Yadav.

ORDER (Oral)

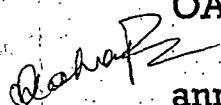
Heard both sides.

2. The applicant states that when he was working as Counter Clerk (Postal Assistant) a widow namely Smt. Savitri approached

account of original pass book being lost, as well as payment of SCSS Joint Account No. 10023, 10028 and 10086 on 11.04.2011 which was in the name of Shri Nand Gopal and Smt Savitri Devi (a Joint B) account. The applicant issued the duplicate pass book by the permission of the Postmaster. The husband of Smt Savitri Devi i.e. Shri Nand Gopal expired on 21.01.2008 and had already withdrawn the amount of Rs 3,04,119/-, 1,01,373/- and Rs 2,37,213/- on 07.07.2007. While checking the said account it was found that the account is alive and accordingly after completion of due process under Rule-68 of POSB, the Postmaster permitted the applicant to issue the duplicate pass book. The paper for payment was forwarded to Local Audit for checking but nothing was brought on notice. The widow, namely Savitri in accordance with the duplicate pass book withdrew the amount of Rs 7,97,872/- on 11.04.2011. Thus, she got double payment. When this came to light, notice was issued to Smt. Savitri Devi. Thereafter, she deposited the amount of Rs 7,96,872/- and Rs 1,000/- vide demand drafts dated 06.09.2013. However, Smt. Savitri Devi did not pay the interest of Rs 2,32,087/- on the said amount.

2. The applicant was served with charge sheet under rule 16 of CCS (CCA) Rules, 1965 vide memo dated 24.07.2014 (Annex. A/12). The respondent No. 5, vide Annex. A/13 order dated 07.11.2014 ordered recovery of Rs 1,50,000/- in 20 instalments of

month of November, 2014 and further ordered to withhold his one increment due on 01.07.2015 for two years without cumulative effect. The applicant preferred appeal against the Annex. A/13 order and also approached this Tribunal. The recovery was stayed vide order dated 20.11.2014. The Appellate Authority i.e. respondent No. 4 vide Annex A/2 order dated 31.07.2015, while deciding appeal against the Annex. A/13 order preferred by the applicant, ordered to remit the case back to the respondent No. 5 for 'De-novo' proceedings from the stage of issue of charge sheet. Thereafter, the respondent No. 5 vide Annex. A/1 order dated 19.01.2016 ordered recovery of Rs 1,20,000/- from the pay of the applicant in 15 instalments @ Rs 8,000/- per month and awarded punishment of his pay being reduced by one stage from 17740+4600 to 17090+4600 in the scale of pay 9300-34080 with grade pay 4600 for a period of one year with effect from 01.01.2016. It was further directed that the applicant will not earn increment of pay during the period of reduction, and that on expiry of this period, the reduction will not have the effect of postponing his further increment of pay. Aggrieved by Annex. A/1 order passed by the respondent No. 5 the applicant preferred an appeal dated 27.01.2016 (Annex. A/17) and also presented this OA on 29.01.2016 before this Tribunal. The applicant has annexed 18 documents in support of his OA.



3. The respondents have filed preliminary reply to the OA. The respondents besides replying to the factual aspect of the case have inter-alia stated that the OA is not maintainable on account of provisions contained in Section 20 (2) (a) & (b) of AT's Act, 1985 as the applicant has preferred an appeal under rule 23 (a) of the CCS (CCA) Rules, 1965 against the Annex. A/1 order passed by the respondent No. 5 before respondent No. 4. Without waiting for the result of the same, he straight away filed the instant OA in a hasty manner which is abuse of process of law.

4. During course of the arguments Mr K.S. Yadav, Ld. counsel for respondents argued that Annex. A/17 appeal filed by the applicant against Annex. A/1 order is pending and the applicant without waiting for outcome of the same, has straight away preferred the instant OA. Therefore, the instant OA is not maintainable.

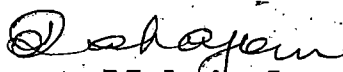
5. Mr S.P. Singh, Ld. counsel for applicant has also confirmed that appeal has been filed by the applicant though he stated that the recovery ordered vide Annex. A/1 order has already been started before deciding the appeal.

Dehake 5. Keeping in view the entire facts and circumstances of the

appeal filed by the applicant is pending. Accordingly, OA is disposed of with the direction to the respondents to decide appeal dated 27.01.2016 (Annex. A/17) filed by the applicant within 02 months from the date of receipt of this order.

Thereafter, if any grievance remains to the applicant, he may approach appropriate forum if so advised. No costs.

6. In view of aforesaid order, M.A. No. 290/00128/16 is allowed and interim order dated 29.01.2016 passed in the OA stands vacated.


[Praveen Mahajan]
Administrative Member

Ss/-