

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No.586 of 1997

Present : Hon'ble Mr. S. Biswas, Administrative Member
Hon'ble Mr. A. Sathath Khan, Judicial Member

Narayan Chandra Saha, S/o Shri Panna Lal
Saha residing at 11, Mahishila Colony,
Sahapara, Asansol-III, Dist.Burdwan, West
Bengal, Pin-713 303

... Applicant

VS

1. union of India, service through the
Secretary to the Govt. of India, Ministry
of Communications, Department of Tele-
communications, Department of Tele-
communications, Sanchar Bhavan, New Delhi

2. The General Manager, Department of
Telecommunications, Asansol Telecom Dist.
Asansol

3. The Deputy General Manager, Office of
the General Manager, Telecom, Asansol
Telecom Dist. Asansol

4. The Divisional Engineer (Administration
Office of the General Manager, Telecom,
Asansol Telecom Dist. Asansol

... Respondents

For the Applicants : Mr.D. C. Bhattacharyya, counsel

For the Respondents : Mrs. U. Sanyal, counsel

: : Date of order: 28-04-2003

O R D E R

Hon'ble Mr. A. Sathath Khan, JM

The above OA has been filed for quashing the impugned order dated 31.10.96 imposing a penalty of recovery of Rs.11,352/-, for refunding the amount already recovered from the salary, for absolving the applicant from the charge of negligence, for not withholding his promotion of O.T.B.P. and for not withholding his increment, seniority etc.

2. The contention of the applicant is that when he was working as a Cashier in the office of SDO (Phones) Asansol, he was served with a chargesheet dated 1.2.96 under Rule 16 of the CCS(CCA) Rules, 1965 alleging that due to his negligence he caused

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loss of Rs.47,007/- to the Government while bringing the said cash from the SBI, Asansol, that the applicant submitted his representation dated 14.3.96 refusing the charges against him and explaining the situation under which the Government money was lost, that the DE (Admn.) by order dated 31.10.96 imposed the penalty of recovery of Rs.11,352/- for his negligence, that the respondents ought to have held an enquiry under Rule 14 of the CCS(CCA) Rules, that the appeal filed by him to the Deputy General Manager dated 12.12.96 was not disposed of by the Appellate Authority, that the applicant ought to have been given escort by the SDO for bringing the cash from the Bank as per the P&T Rules, that the applicant was not negligent in bringing the Government cash and that the penalty imposed on him is arbitrary and illegal. Under these circumstances, the applicant prays for the reliefs stated above.

3. The respondents contend that the applicant was negligent in bringing the Government money of Rs.47,007/- from the State Bank of India, Asansol, that the applicant ought to have requested for escort as per rules, that the applicant was negligent in leaving the Government money in the vehicle which resulted in the loss of Government money, that the respondents are empowered to proceed under Rule 16 of the CCS(CCA) Rules for minor penalty, that the applicant admitted in his reply the incident in which he lost the Government money, that the applicant did not ask for any enquiry at all in his reply to the chargesheet, that the penalty imposed on the applicant is just and proper, that the appeal filed by the applicant was also dismissed by the appellate authority on 22.4.97 and that there are no merits in the above OA. Hence the respondents pray for dismissal of the above OA.

4. Heard the learned counsel for the applicant and the respondents and considered all the pleadings and relevant records of the case.

5. At the time of arguments it was found that the applicant

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has prayed for multiple reliefs which cannot be considered as consequential reliefs. Hence the learned counsel for the applicant confined his arguments to the relief of quashing the penalty imposed on him by order dated 31.10.96. The first contention of the learned counsel of the applicant is that the applicant cannot be considered to have acted negligently because the SDO ought to have provided escort to him at the time of bringing cash from the bank as per the rules. In the present case, the applicant has been asked to go in a vehicle and the Driver accompanied him. If the SDO failed to provide escort, the applicant should have refused to go to the bank for drawing cash without escort. The applicant, having accepted the responsibility of drawing cash from the bank without any escort, ~~he~~ cannot blame others for not providing escort for him. Moreover, the applicant has admitted that he left the cash in the vehicle and assisted the Driver for repairing the vehicle. No reasonable and prudent man could have left cash in the vehicle unattended and could have attended to some other work. Hence the conduct of the applicant in leaving the cash in the vehicle unattended clearly amounts to negligence. The second contention of the learned counsel for the applicant is that the disciplinary authority ought to have held the enquiry under Rule 14 of the CCS(CCA) Rules. A perusal of the CCS(CCA) Rules clearly shows that it is for the disciplinary authority to decide as to whether the applicant should proceed against Rule 14 or Rule 16. Moreover, in the reply filed by the applicant to the showcause notice under Rule 16, the applicant has not asked for any enquiry at all. On the contrary, the applicant ^{virtually} has ~~verbally~~ admitted the incident in which he lost the Government money. Under these circumstances, we hold that the procedure adopted by the disciplinary authority and the penalty imposed on the applicant under Rule 16 are in accordance with the rules. The appellate authority has also carefully considered the appeal preferred by the applicant and has confirmed the penalty imposed

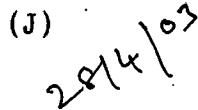
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by the disciplinary authority. We do not find any infirmity or illegality in the order of the disciplianry authority or the appellate authority.

6. In the result, the OA is dismissed. There is no order as to costs.


(A. Sathath Khan)

MEMBER (J)


28/4/03


(S. Biswas)

MEMBER (A)