

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 262 of 2008

Tuesday, this the 11th day of November, 2008

C O R A M :

**HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER
HON'BLE MS. K NOORJEHAN, ADMINISTRATIVE MEMBER**

L.K. Gangadharan,
Superintendent of Post Offices,
Thiruvananthapuram South Division,
Thiruvananthapuram : 695 014 ... Applicant.

(By Advocate Mr. Vihnu S. Chempazhanthiyil)

v e r s u s

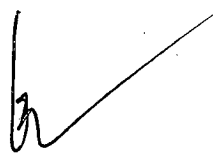
1. The Chief Postmaster General,
Kerala Circle, Thiruvananthapuram : 695 033
2. The Director General,
Department of Posts, Dak Bhavan,
New Delhi : 110 001
3. Union of India, Represented by its
Secretary, Ministry of Communications,
New Delhi ... Respondents.

(By Advocate Mr. T.P.M. Ibrahim Khan, SCGSC)

The Original Application having been heard on 11.11.08, this Tribunal on the same day delivered the following :

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The applicant in this case has come up before this Tribunal challenging Annexure A/1 charge sheet as illegal and arbitrary and has sought for quashing of the same and for promotion to



the Time Scale in Group 'A' with effect from the date his junior was promoted.

2. Briefly, the facts of the case are as under :

(a) The applicant is presently functioning as Superintendent of Post Offices, Trivandrum Sub Division. He was posted as Senior Postmaster in Trivandrum GPO in January, 2007, where he functioned in that capacity till 20.08.07.

(b) The applicant was issued with a charge sheet dated 27.03.08 vide Annexure A/1 under Rule 14 of the CCS (CCA) Rules, 1955. The articles of charges are as under :

ARTICLE-I

That Sri L.K. Gangadharan, Superintendent of Post Offices, Thiruvananthapuram South Division while functioning as Senior Postmaster, Thiruvananthapuram GPO during the period 02.01.07 to 30.08.07 failed to count and verify the actual balance of cash of Thiruvananthapuram GPO on the last working day of each month as required under 124(1) of P&T FHB Volume I, and facilitated misappropriation of Rs. 14,00,000/- (Rupees Fourteen Lakhs only) by Shri V.S. Satheesachandrakumar, Treasurer No.1, Thiruvananthapuram GPO and thereby failed to ensure integrity and devotion to duty of Shri V.S. Satheesachandrakumar and displayed lack of devotion to duty violating Rule 3 (2)(i) and 3 (1)(ii) of CCS Conduct Rules, 1964.

ARTICLE-II

 That Sri L.K. Gangadharan, Superintendent of Post Offices, Thiruvananthapuram South Division while

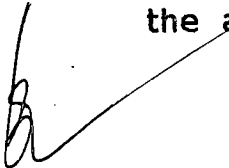
functioning as Senior Postmaster, Thiruvananthapuram GPO during the period 02.01.07 to 30.08.07 failed to notice retention of cash in excess of authorized maximum by the Treasurer No. 1 and to submit the weekly statement of balances of Thiruvananthapuram GPO in the prescribed form to the Senior Superintendent of Post Offices, Thiruvananthapuram North Division as required under Rule 57(b) of Postal FHB Volume II (2nd edition) and facilitated misappropriation of Rs. 14,00,000/- (Rupees Fourteen Lakhs only) by Shri V.S. Satheesachandrakumar, Treasurer No.1, Thiruvananthapuram GPO and thereby failed to ensure integrity and devotion to duty of Shri V.S. Satheesachandrakumar and displayed lack of devotion to duty violating Rule 3(2)(i) and 3 (1)(ii) of CCS Conduct Rules, 1964.

ARTICLE-III

That Sri L.K. Gangadharan, Superintendent of Post Offices, Thiruvananthapuram South Division while functioning as Senior Postmaster, Thiruvananthapuram GPO during the period 02.01.07 to 30.08.07 failed to verify the out of account cash with the Treasurer No.I and to notice the non maintenance of record of out of account recoveries by the Treasurer No.I as required under Rule 47 (c) of Postal FHB Volume II (2nd edition) and Rule 124 (2) of P&T FHB Volume I and facilitated misappropriation of Rs. 74,238/- (Rupees Seventy four thousand two hundred thirty eight only) by Shri V.S. Satheesachandrakumar, Treasurer No.1, Thiruvananthapuram GPO and thereby failed to ensure integrity and devotion to duty of Shri V.S. Satheesachandrakumar and displayed lack of devotion to duty violating Rule 3 (2)(i) and 3 (1)(ii) of CCS Conduct Rules, 1964."

(c) The applicant has filed his response vide Annexure A/2.

(d) By separate Misc. Applications No. 400/08 and 417/08, the applicant has made certain amendments in the aforesaid O.A.



3. The respondents have contested the O.A. According to them, the applicant was functioning as Senior Postmaster during the relevant period and was required to verify the cash and stamp balances of the GPO on the last working day of each month in keeping with Rule 124 (1) of the P&T Financial Hand Book Vol.I. This function forms part of his Memo of distribution of work vide Annexure R/1. The applicant had not carried out this mandatory verification. Further, as per Rule 57(d) of Postal Financial Hand Book Vol. II (2nd edition), the Senior Postmaster was required to submit a weekly statement of cash and stamp balances of the GPO to the Senior Superintendent of Post Offices. The applicant has failed to submit these weekly statements. Further, the applicant was also required under Rule 47(c) of the Postal Financial Hand Book Vol. II (2nd edition) and 124 (2) of the P&T Financial Hand Book Vol. I to see that the amounts shown as kept out of account, are correct by referring to the copies of statements of Societies recoveries etc. etc. It was on account of the above omission and commission that the charge sheet Annexure A/1 came to be issued. They have thus contended that the applicant has to face enquiry and thus the O.A is liable to be dismissed.

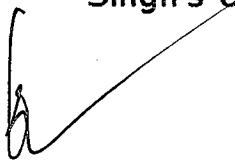
4. The applicant has filed his rejoinder which was responded to by filing of an additional reply by the respondents to which the applicant had filed additional rejoinder. The second additional

reply has also been filed by the respondents.

5. The Senior Counsel appearing for the applicant submitted that the applicant performs his duty as required and in so far as non-verification of cash accounts, as a matter of fact the practice in the Organisation was that no such verification took place. He has further stated that the responsibility lies upon the Deputy Postmaster who was to ensure the care in maintaining of accounts and availability of cash along with the Treasurer. As such the primary responsibility being upon the Treasurer and Deputy Postmaster, issuing the charge sheet to the applicant who is not directly involved in the transaction is illegal.

6. The Senior Central Government Standing Counsel submitted that the applicant has come up with this O.A. challenging the issue of charge sheet. It is settled law that the Tribunal does not interfere at the level of issue of charge sheet. He has referred to a decision of the Apex Court in the case of Union of India vs. Upendra Singh, (1994) 3 SCC 357, stating that the applicant shall be given full opportunity to defend in the enquiry proceedings. He has, therefore, prayed for dismissal of the O.A.

7. Arguments were heard and documents perused. In Upendra Singh's case (supra), the Apex Court held that "in the case of



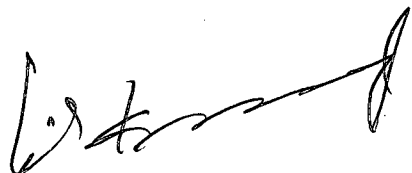
charges framed in a disciplinary enquiry, the Tribunal or Court can interfere only if on the charges framed (read with imputation of particulars of the charges, if any) no misconduct or other irregularity alleged can be said to have been made out or the charges framed are contrary to any law. It has also been held that at this stage, the Tribunal has no jurisdiction to go into the correctness or truth of the charges."

8. In view of the clear law laid down by the Apex Court as extracted above, we have no hesitation to hold that the Tribunal cannot interfere at this stage in the disciplinary proceedings. The applicant having not made out a case, the O.A. is dismissed.

9. In the circumstances, there shall be no order as to costs.

(Dated, the 11th November, 2008)


(K. NOORJEHAN)
ADMINISTRATIVE MEMBER


(Dr. K B S RAJAN)
JUDICIAL MEMBER

cvr.