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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 93 of 1990(L)

Chandra Mauleshwar Ojha Applicants

Versus

1. Union of India, through the secretary,
Telecommunication(Postal), Parliament Street,
New Delhi.
2. Senior Superintendent of Post Office, Pratapgarh.
3. Director of Postal Services, Allahabad.

. Respondents

Hon'ble Mr. S.N. Prasad, Member (J)

The applicant has approached this tribunal under section 19 of the Administrative Tribunals, Act, 1985 with the prayer for setting aside the impugned order dated 10.7.1989(annexure-4) whereby the recovery of Rs. 11525.70 from the pay of the applicant, Shri Chandra Mauleshwar Ojha P.A. the then S.P.M. Laxmanpur S.O., in 35 equal instalment of Rs. 320/- per month and the last instalment of Rs. 325.70 and also for quashing the order dated 31.10.1989 passed by the appellate authority(respondent No.3)(annexure-1).

2. Briefly, stated the facts of the above case, inter-alia, are that the applicant was employed as Sub-Post Master, Laxmanpur Sub-Post Office in the District of Pratapgarh w.e.f. 1.5.1988. There was no provision of any residence for the sub Post Master in the office premises and to guard the Post Office at night, a contingency paid Chaukidar was employed on a monthly allowance of Rs. 923/- In the night between 21/22.9.88, the cash was committed and cash amounting to Rs. 14,525.70 were stolen and in the next morning the Chaukidar came to know about the above theft which had taken place in his absence during the above night.

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by the applicant against the impugned order dated 10.7.89 was rejected and as such the applicant has filed this application for the reliefs sought for, as mentioned above.

3. The respondents in their counter-affidavit have resisted the claim of the applicant with the contentions, inter-alia, that the applicant while working as S.P.M. Laxmanpur Post Office, Pratapgarh on 21.9.1988, after closing hours, he put the cash in the small cloth bag and kept it in the iron chest embedded in the Post office alongwith other valuable things, and retained cash of Rs. 14525.70 against the maximum sanctioned balance of Rs. 3000/-. The lock of iron chest and the P.O. intergate was locked by the applicant with the help of E.D. packer Shri Shambhu Nath and C.P. Chaukidar had not attended the post office at the time of closing the post office, and the applicant left the post office without awaiting for the arrival of the said C.P. Chaukidar at about 1700 hours. The theft occurred in the Laxmanpur Post Office during the night intervening between 21/22.9.88 and the cash amounting to Rs. 14525.70 was stolen by the thieves, F.I.R. was lodged and the case was registered at P.S. Jethawa but the police investigation was ended with Final Report No. 49 dated 14.11.88. The applicant was proceeded against under rule 16 of CCS (CC&A) Rules, 1965 vide office memo dated 4.4.89 for the misconduct or misbehaviour on his part and he was given full opportunity to defend his case and was required to submit his representation if any and after careful consideration of the whole case and also after considering defence version the applicant was found fully responsible for the loss of the Government money amounting to Rs. 14,525.70/-.

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Keeping in view ~~of~~ the facts and circumstances of the case, the applicant was saddled with the responsibility for recovery of Rs. 11525.70 against him by the impugned order dated 10.7.89. It has further been contended that the above impugned order~~s~~ dated 10.7.89(annexure-4) and 31.10.89(annexure-1) have been passed by the respondents No.2 and 3 respectively in accordance with the relevant rules, regulations and procedure and there is no illegality, and invalidity in the above impugned orders and as such the application of the applicant is liable to be dismissed with cost.

4. The applicant has filed his rejoinder-affidavit wherein he has re-iterated almost all those grounds and view points as mentioned in his main application.

5. I have heard the learned counsel for the parties and have thoroughly gone through the records of the case

6. The learned counsel for the applicant while drawing my attention to the contents of the application, counter-affidavit, rejoinder-affidavit and the papers annexed thereto has argued that there is no mistake or fault on the part of the applicant as the applicant was the Sub-Post Master and entire responsibility for watching and preventing any occurrence of theft etc, was the responsibility of the Chaukidar concerned, and has further argued that since the amount of Rs. 14525.70 was retained by the applicant to meet the urgent prospective payment to the depositors and as such there was compliance of the mandatory provisions of rules 102(B) of P&T Man. Vol. VI, Pt. II by the applicant and as such the applicant can not be saddled with the responsibility of the aforesaid theft which occurred due to negligence


Chowkidar concerned; ^{and} has further argued that there is discrepancy in the amount of realization by way of 35 equal instalments ^{which} go to make total of the amount being instalment of Rs. 320/- each to the tune of Rs 11,200/- whereas the entire amount ordered to be recovered is to the tune of Rs 11,525.70 and as such the application of the applicant should be allowed and the reliefs sought for be granted.

7. The learned counsel for the respondents, while advertg to the pleadings of the parties and to the papers annexed thereto and while reiterating the viewpoints as mentioned in the Counter, has argued that there was no compliance of the mandatory provisions of Rule 102(B) of P&T Manual, Volume 6 part III, as the applicant retained the cash of Rs 14,525.70 on the crucial date i.e. 21.9.88 against the maximum sanctioned balance of Rs 3,000/-, and has further argued that the applicant was habitual in keeping more amount than the maximum sanctioned and permissible balance of Rs 3,000/- as would be obvious from the perusal of Annexure A-4; and has further argued that the Chowkidar concerned, keeping in view the provisions contained under rule 102 (B) of P&T Manual, Volume 6, part III, ~~Chowkidar concerned~~ was responsible for the maximum sanctioned balance of Rs 3,000/- only and that is why a sum of Rs 3,000 has been recovered from the chowkidar concerned out of the entire amount of Rs 14,525.70 which was stolen during the night of 21/22.9.88 by the thieves, and that is why the applicant has been held responsible only for the remaining amount of Rs 11,525.70 after realizing Rs 3,000 from the Chowkidar concerned; and has further argued that the impugned orders were passed by the authorities concerned, legally

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and properly and in accordance with the extant rules and procedure, and there was no illegality of any kind; and has further argued that every opportunity was given to the applicant to defend himself; and as such there is no illegality of any kind in the impugned orders; and has further argued that there is no discrepancy in the amount of realization by way of 35 instalments as the instalments may vary and the rest 34 instalments be of equal amounts for arriving at the accurate amount of Rs 11525.70 and this has been clearly specified in the impugned order Annexure-4 at the bottom and thus, this being so, the application of the applicant should be dismissed with costs.

8. This is noteworthy that the learned counsel for the respondents has produced before me a true attested copy of the Memo No. G/AB/86-87 from the office of Senior Superintendent of Post offices, Pratapgarh Division dated 20.11.86 whereby the minimum and maximum balance of various ^{post} offices of that division have been fixed and a perusal whereof shows that at serial No. 22 in respect of sub post office Laxmanpur maximum limit has been specified as ^{Rs.} 3,000 and minimum as ^{Rs.} 1,000/-. A perusal of Annexure A-4 and other papers and material on record reveals that on 21.9.88 the applicant had retained Rs 14,525.70 in cash which far in excess the sanctioned limit of Rs 3,000/- and for that he had no plausible explanation and as such I find, after scrutinising the entire material on record and keeping in view the circumstances of the case that the applicant was at fault in retaining the aforesaid amount on 21.9.8

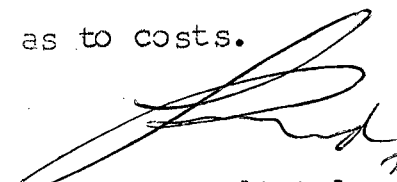


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9. This is also noteworthy that a careful perusal of Annexure 4 clearly shows that in order to recover the entire amount of Rs 11,525.70 from the pay of the applicant in 35 equal instalments, there is clear mention that the ~~last~~ instalments would of Rs 325.70. Thus, I find no discrepancy as argued by the learned counsel for the applicant.

10. Thus, from the foregoing discussion and after considering all the aspects of the matter and keeping in view all the facts and circumstances of the case, I find that the application of the applicant is devoid of merit and consequently the same is liable to be dismissed.

11. In the result the application of the applicant is dismissed without any order as to costs.


Member Judicial. 29.7.92

Lucknow: Dated 29.7.92.