

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 214 of 1991(L)

R.B. Shukla Applicant

Versus

Union of India & Others Respondents

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member (A)

(By Hon'ble Mr. Justice U.C.Srivastava, VC)

Against the punishment order dated 27.2.1990 requiring a recovery sum of Rs. 14,148.00 from the salary of the applicant in equal instalment for a period of three years, the applicant who was a postal clerk in the Sikanderpur Karan Post Office approached the tribunal. According to the applicant one Shiv Karan Trivedi Extra Departmental Branch Post Master of Sikanderpur Karan committed a fraud of Rs. 1,21,841.95 in the Sikanderpur Karan Branch Office under Unnao Head Post Office. This fraud being committed by him from before April, 1976 and it could be deducted only in the year 1979. A charge-sheet was served upon the applicant regarding his negligence otherwise, the fraud could have been detected earlier. With the result, that the applicant was punished and his next increment was withheld for two years. In the said order embezzlement of Rs. 1,21,841.95 was not mentioned. Subsequently, another charge-sheet was served upon the applicant. The applicant did not submit any reply to the said charge-sheet, although he did inspect the documents and according to the applicant because he moved an application for copies of the documents and the same was not given and that's why he did not submit his reply. In the absence of any reply, the respondents have no option, but to pass an order against the applicant holding that he was guilty of negligence. It is true, of course

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that there was no finding against the applicant that he all embezzled the amounts, but the charge against him was that because of his negligence, this fraud could have been committed and that's why he was directed to pay a sum of Rs. 14,148.00 which was recoverable from his salary in monthly installments of Rs. 363/-.

2. Sri A.K. Shukla learned counsel for the applicant strenuously contended that ~~in~~ for the same amount he could not have been punished. The first order which is on record indicates that the applicant was charged for negligence of certain amount. But not for entire amount of Rs. 1,21,841.95/-, though in order, a reference has been made. A reference to the embezzlement of the said amount which is said to have been embezzled by one Sri Shiv Karan Trivedi was made. Subsequently, it appears that it was discovered that Shiv Karan Trivedi alone was not responsible for the same, although various other persons were responsible for the same, and the negligence of the applicant facilitated the said embezzlement and that's why the charge-sheet was served upon him. In case, the applicant could have submitted his reply, may be under protest and could have prayed for more time to file the detail reply, in case, would have in favour of the applicant and the applicants' conduct, if the respondents have informed, the applicant has rather silently accepted his guilt. They were no where in the wrong and that's why they have punished the applicant, which the applicant deserves, as there was failure to perform part of his duties, in case he has been performing his duties faithfully, the embezzlement could have been detected earlier and the amount could have been reduced, but what

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was the criteria in asking the applicant to pay a sum of Rs. 14,148.00 has not yet been disclosed. It is not known in what manner apportionment has been made. It is open for the applicant to approach the respondents for apportionment and in case they assign any reason as to what extent ^{they} ^{him} found/guilty, then the amount which has ~~to be~~ realized, ~~-----~~ shall be realized but in case, in making apportionment, the amount is reduced and the same has been realized, the said amount shall be paid back to the applicant. With these observations, the application is being disposed of finally. No order as to costs.


Member (A)


Vice-Chairman

Lucknow Dated: 25.2.1993.

(RKA)