

C.A. No. 308/1991

Chandra Prakash ... Applicant

Vs.

Union of India & others ... Respondents

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon. Mr. K. Obayya, A.M..

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

1. Pleadings are complete. The case is being disposed of finally.
2. The applicant was working as T.D.S.O. Ledger Clerk although he had started his service as Extra Departmental Branch Post Master. The applicant was issued Charge-Sheet on different dates in respect of fraud committed by him in the past service which related to the withdrawal of the amount fraudulently on 9 Charge-Sheets and similar other frauds.
3. The applicant submitted his reply to the said Charge-Sheets and in respect of seven cases, findings which was recorded against him though on different dates and in these cases, the total amount of recovery which was ordered was to the tune of Rs. 15,920/- which was to be recovered within a span of 3 years by the Superintendent of Post Offices. In two cases, one increment for one year in each case was stopped and thus in respect of all the nine charge-sheets, the applicant was punished. The result was that the recovery of Rs. 470/- every month started from the pay of the applicant each month. The main plea of the applicant is that although he was not found guilty at all for the negligence of duty for which he has been charged and for the punishment imposed, if otherwise can not be questioned is not in accordance with the provisions of law, and in this connection, reference has

made to Para 108 of the P&T Manual, Vol.-III which reads as under :-

"The maximum amount which may be recovered from a delinquent officer on account of the loss caused to the Department through his negligence should be 1/3rd of his pay spread over a period of three years."

4. According to the applicant, one year's basic pay of the applicant which was @ Rs. 1100/- per month and calculating to that amount ~~that~~ this amount which has been ordered to be recovered was excessive and against the rules. According to the respondents as this amount is recovered vide separate punishment orders, xxxxxxxxxxxx which have been passed, and the contention on behalf of the applicant appears to be correct as maximum amount of recovery is already provided under the relevant rules and that the sum of Rs. 470/- can not be recovered every month. Accordingly, the application deserves to be allowed to the extent that in all the seven cases dt. 28.2.90/26.3.90; dt. 29.12.89; dt. 21.2.90/26.3.90; dt. 27.2.90; dt. 28.2.90/26.3.90; dt. 27.2.89 and 28.2.90/26.3.90, the recovery is quashed and the respondents are directed to reconsider this matter in accordance with law and award of punishment thereafter if considered necessary and then make the recovery from the applicant. The recovery which has been already made will be adjusted towards further recovery. In case, ultimately, it is held that the applicant is not liable to pay any amount taking into consideration Rule 107, the amount so recovered be refunded to him. Let this matter may be decided within a period of 3 months from the date of communication of this order. The application is disposed of finally.

5. No order as to costs.

Member (A)

Vice Chairman

Lucknow  
dt. 16.11.92