

(AC)

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 533 of 1991

Daya Shanker Mishra 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)

As the pleadings are complete, the case is being disposed of finally.

2. By means of this application, the applicant has prayed for issuance of writ of certiorari quashing the order dated 11.12.1989 passed by the Superintendent of Posts Offices, Gonda for making recovery of Rs. 13,620/- from the movable or immovable property of the applicant through the Collector, Gonda. and has also prayed that a mandamus be issued to the respondents from making the said recovery.

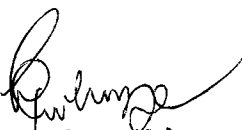
2. The applicant ^{was} provisionally appointed as Extra Departmental Branch Post Master, Khajuria, District Gonda vide order dated 9.5.1986. While working as Extra Departmental Branch Postmaster during the period of 28.5.1986 to 5.2.1987. It was found that few amount\$ of M.Os and insurance letters have been misappropriated by making forged signatures and engaging substitute on his post on his personal risk and responsibility during the enquiry of the fraudulent cases. The service of Daya Shanker Mishra was found unsatisfactory and that's why the services of the applicant were terminated vide order dated 5.2.1987. As charged ~~was~~ not handed over by him a complaint was lodged at Police Station and later on charge was handed over by him.. More than one F.I.R. was lodged against the applicant and the applicant was

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even arrested and later on was released on bail and the criminal cases are still pending against him. According to the applicant, the respondents have issued an order for making recovery of Rs. 13,620/-, though the criminal case is pending under trial against him. The grievance of the applicant is that this action has been taken without there being recording any finding that in fact, he has misappropriated this amount and more so, when this amount is not involved in the criminal trial.

3. According to the respondents, the applicant has misappropriated this much amount, accordingly, the provisions of Revenue recovery Act 1890 and section 4 of P.A.D. Act, proceedings were taken against him and District Collector, Gonda was asked to recover the said amount and proceedings are going ahead, as the recovery could have been made against the applicant under this Act and it was for the applicant to file objection before the authorities concerned. In Case, the applicant has not been given opportunity to deposit the amount, and no notice was given to him for recovery of the said Extra Amount of more than 8,000/-, no recovery shall be made from the applicant unless such an opportunity is given to him. Accordingly, this application is allowed with the said direction. However, it will be open for the respondents to attach the property in any manner whatsoever so long as the proceedings in accordance with law after giving notice and opportunity to him is not started. The application is disposed of with these terms. No order as to costs.


Member (A)


Vice-Chairman

Lucknow Dated: 6.1.1993

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