

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

ORIGINAL APPLICATION NO. 606/92.

this the 13th day of October '99.

HON'BLE MR D.C. VERMA, MEMBER(J)

HON'BLE MR A.K. MISRA, MEMBER(A)

Babu Ram Dhooriya, aged about 50 years, S/o Shri Badri Prasad, Postal Asstt., Mahewaganj, P.O. Kheri Division, Kheri, R/o Village & Post Office Mideria, District Kheri.

Applicant.

By Advocate: None.

Versus.

Union of India through the Secretary to Government, Ministry of Communications, Department of Posts, Government of India, New Delhi.

2. Director Postal Services, Lucknow Region, Lucknow.

3. Superintendent of Post Offices, Kheri Division, Kheri.

Respondents.

By Advocate: Dr. D. Chandra.

ORDER (ORAL)

D.C. VERMA, MEMBER(J)

The applicant-Babu Ram Dhooriya was served with a chargesheet under rule 16 of the CCS(CCA) Rules 1965 by the respondent no.3 vide his memo dated 22/24.11.88 with the allegations that while working as Postal Asstt. at Kheri Head Post office in the capacity of Ledger Asstt. II on 12.8.85, he failed to comply with the provisions of rule 442 of P&T Manual Vol VI Part II by not raising objection in transferring Kheri H.O. 5 years T.D. Account resulting in loss of Rs.32705/- and Rs.30750/- and by doing so he failed to maintain absolute integrity and devotion to duty as required under rule 3(i) (ii) of CCS (Conduct) Rules 1964. After the departmental enquiry, the disciplinary authority found charges proved against the applicant. The applicant filed departmental appeal which too was dismissed. Thereafter the applicant approached

- 2 -

this Tribunal by filing O.A. No. 92/90 in re. Babu Ram Dhooriya Vs. Union of India & others, which was decided by the Tribunal on 18.3.92 with the following observations:-

In the instant case, the respondents directed that the recovery should be made within three years time within the period prescribed under the rules and obviously it was found that the applicant was also responsible for negligence and breach of the rule. Even if that was so in view of Rule 107 it was obligatory on the part of the respondents to find out as to what extent the applicant's negligence was responsible for causing a particular loss but that was not done although the rule enjoins a duty on the respondents to do so. Accordingly, this application deserves to be allowed in part and so far as recovery of the part of order is concerned, fixing a sum of Rs. 9000/- as liability of the applicant is quashed. However, it will be open for the respondents to decide the rule of the applicant and the contributory negligence and the extent of loss to which he is responsible and which he is required to pay. Incase ultimately after the enquiry which it is expected may be concluded within three months as the matter is old, it is found that the applicant is liable to pay a lesser amount, the extra amount which has been realised from the applicant, would be refunded back to him. With these observations, the application is disposed of without any order as to cost."

2. In the light of the above directions of the Tribunal, enquiry was made by the respondents and Annexure-1 dated 17/19.8.92 impugned in the present O.A. was passed by the respondents.

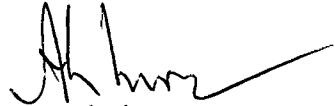
3. We have heard the learned counsel for the respondents and have gone the pleadings on record.

4. The submission of the learned counsel for the respondents is that the order impugned in the present O.A. was passed after a proper enquiry. It has, therefore, been submitted that this order is final and an amount of Rs.9000/- has been apportioned as liability of the applicant as against the total loss of Rs. 63480.50/- sustained by the department. The submission of the learned counsel is that there is no flaw in the procedure followed by the respondents and, therefore, the present O.A. has no merit.

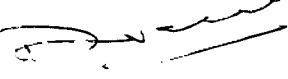
5. We have seen the earlier order of the Tribunal in O.A. no. 92/90 in which punishment order and the appellate order, both were under challenged. The Tribunal, however

allowed the earlier O.A. only in part sofar recovery fixing a sum of Rs. 9000/- as liability of the applicant was concerned. That part was quashed by the Tribunal. This means that the other part and the findings of the disciplinary authority and the appellate authority was not disturbed by the Tribunal while deciding the earlier O.A. The Tribunal had only directed the respondents to find-out as to what extent the applicant's negligence was responsible for causing a particular loss. Accordingly, the respondents made an enquiry and passed the order impugned in the present O.A. This order, therefore, becomes a part of the order passed by the disciplinary authority in respect of the recovery of Rs.9000/- from the applicant. Thus, the applicant had a right to file an appeal against this order also to the appellate authority. The learned counsel for the respondents Dr. D. Chandra has submitted that the applicant ~~that the applicant~~ had filed no appeal against the order impugned in the present O.A. nor any such recital was made in the O.A. Consequently, order Annexure-1 passed by the disciplinary authority has become final.

6. In view of the discussion made above, we find that the present O.A. is devoid of merit and is dismissed. No costs.



MEMBER (A)



MEMBER (J)

LUCKNOW:DATED:13.10.99.

G.S.