

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH  
LUCKNOW

O.A. NO.

396

1991 (L)

~~O.A. NO.~~

199 (TL)

Date of Deceasion \_\_\_\_\_

Keshav Chandra Srivastava Petitioner.

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Advocate for the  
Petitioner(s)

V E R S U S

U.C.I. and others Respondent.

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Advocate for the  
Respondents

C O R A

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

Hon'ble Mr. K. Obayya, A.M.

1. Whether Reporter of local papers may be allowed to see the Judgment .
2. To be referred to the reporter or not ? ✓
3. Whether their Lord Ships wish to see the fair copy of the Judgement ? ✓
4. Whether to be circulated to other benches ? ✓

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Vice-Chairman / Member

LUCKNOW BRANCH LUCKNOW

Original Application No: 356 of 1991

Kashava Chand Srivastava ..... Applicant

Union of India & SOA ..... Respondent

Hon'ble Mr. Justice G. S. Chatterjee, J.C.

Hon'ble Mr. Justice G. S. Chatterjee

(by Hon'ble Mr. Justice G. S. Chatterjee, J.C.)

One microcredit/repatriator applicant, Mr. Kashava Chand Srivastava, Postmaster of Sub Post Office, Bahmani, Lucknow, was transferred to Mohamadi Post Office, Bahmani, Lucknow, on 12.3.1985. He was working as a Postmaster IV at Khari Head Post Office on 12.3.1985. He did not get the account, No. 58986, entered in the ledger index was demanded for checking, but it was checked by the applicant. He failed to challenge the request for irregular transfer of the account.

One microcredit/repatriator applicant, Mr. Kashava Chand Srivastava, Postmaster of Sub Post Office, Bahmani, Lucknow, was transferring his Khari Head Post Office Savings Account No. 58986 (which was a fake account) from Khari Head Post Office, Bahmani, Lucknow, to Mohamadi Post Office, Bahmani, Lucknow, on 12.3.1985. The account No. 58986 was opened by Mr. Kashava Chand Srivastava in the ledger of Sub Post Office, Bahmani, Lucknow, on 12.3.1985. The account No. 58986 was a fake account. The record for tallying the signature of Mr. Kashava Chand Srivastava was not available. The new account No. 5111 was opened at Mohamadi Post Office, Bahmani, Lucknow, on 12.3.1985. The direction from Khari Head Post Office, Bahmani, Lucknow, to Mohamadi Post Office, Bahmani, Lucknow, was that the original account No. 58986 belongs to Mr. Kashava Chand Srivastava. After opening the account in this irregular manner at Mohamadi Post Office, Bahmani, Lucknow, Mr. Kashava Chand Srivastava transferred the account No. 58986 with a new account No. 5111 to Khari Head Post Office, Bahmani, Lucknow, for transfer of the account to Mohamadi Post Office, Bahmani, Lucknow. The applicant, Mr. Kashava Chand Srivastava, who was working as a Postmaster IV at Khari Head Post Office on 12.3.1985, did not get the account, No. 58986, entered in the ledger index was demanded for checking, but it was checked by the applicant. He failed to challenge the request for irregular transfer of the account.

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account and non observance of the procedure laid down in Rule 413 of P&T Manual Vol. VI Part II which resulted in the transfer of 5 year Time Deposit Account No. 50986 from Khari H.O. to Mohamadi Post Office from where the miscreant/depositor withdrew the maturity amount of Rs. 32,705/- (Rs. 21,000/- + Rs. 11,705/-) on 29.8.1985. According to the ledger card of T.D. Account No. 50986 of Khari Head Post Office Account No. 585771 from Sidhuli Post Office Distt. Sitapur with a balance of Rs. 21,000/- was received in transfer and was allotted the new T.D. Account No. 50986 in Khari Head Post Office. On enquiry it was revealed that T.D. Account No. 585771 was for Rs. 1500/- only which was closed prematurely at Sidhuli Post Office on 9.11.1981. Thus the ledger card of T.D. Account No. 50986 was made with fake entries. This fake account was again transferred to Mohamadi Sub Post Office, Distt. Khari. The applicant failed to observe the prescribed procedure. Thus the department was put to a loss of Rs. 32,705/- in account of negligence and lack of devotion to duty on the part of the applicant. Similarly in another matter it is said that the department has to suffer a loss of Rs. 30,775.50 P. through this fake T.D. Account. This loss was discovered through the charge sheet of the applicant and the applicant was given an opportunity to make representation in protestation as he may wish to do so. Instead of making representation within 10 days of the receipt of the charge sheet which was received by him on 26.11.1988 and but instead of making representation, he demanded further 15 days time vide his application dt. 1.12.1988 for making representation. The applicant was given

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10 days more time vide letter dt. 2.12.1988 which was received by him on 6.12.1988. Instead of making representation, he demanded further 10 days more time vide his application dt. 15.12.1988 for simply lingering the case. Since the applicant had given 10 days more time but he did not submit his representation and therefore the department had no alternative except to decide the case on merits on 19.12.1988 and communicated the same vide memo No. F-6/87/83/Disc-13 dt. 20.12.88. Punishment of recovery of Rs. 12,250/- only from his pay was awarded. The applicant made an appeal against the said order to the Director Postal Services, Lucknow Region which was rejected on 30.3.1989. The applicant made a revision petition against the appellate order dt. 30.3.89 to the Member (F), Postal Services Board, New Delhi who reduced the amount of recovery of Rs. 12,250/- to Rs. 10,000/- on purely humanitarian grounds. Having felt aggrieved by the above order, the applicant has filed the present C.A. According to the applicant the recovery order has been passed without giving him any opportunity of hearing. In the case of minor penalty it is not obligatory for full fledged inquiry. An opportunity for a representation was to be given ~~and the same was given -~~ and he cannot be held liable for the applicant that an opportunity was given. In reply to para 4(iv) it is stated that the applicant had already been granted additional time of 10 days to submit his representation. Further extension of time was not considered necessary, under the circumstances of the case as the applicant was

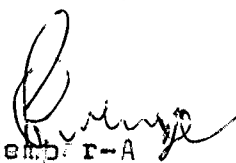
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not on sick leave during the period. As the applicant failed to submit representation, the Respondents No. 4 (disciplinary authority) had no alternative except to decide the case on merits which was decided on 19.12.1988 and communicated on 27.12.1988. It is next contended that the applicant vide his application dt. 19.12.1988, requested for inspection of certain documents whereas in his earlier applications dated 1.12.1988 and 15.12.1988, he had simply requested for extension of time of 15 days and 10 days respectively. If the applicant was actually desirous of inspecting the documents, the request should have been made in his earlier applications. He simply wanted to linger the case on one pretext or the other. From the above facts it is clear that time and reasonable opportunity was given to the applicant for submitting his representation. There was no violation of principle of natural justice or reasonable opportunity of hearing to the applicant. According to the learned counsel, the Assistant Post Master, who has been impleaded as respondent No. 4 was liable and he should have been subjected to enquiry and the applicant has been unnecessarily hauled up. The matter went before the member Post Telegraph P & T Board and after taking into consideration certain circumstances what has been stated by the applicant he reduced the punishment. While reducing the punishment he should have been taken into consideration the provisions of P & T Manual including para 106 and 107 regarding apportionment of liability. It appears that it was also not taken into consideration that the loss should be made good if from the wrong receipt <sup>is</sup> ~~is~~ <sup>to</sup> ~~to~~

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whom payment was made but, that too was not done.  
In case the matter is sent back for apportionment  
of liability the matter will linger on without any  
fruitful result and the interest of justice will be  
served, In case the amount of recovery is reduced  
to 5,000/- and it is accordingly reduced to Rs. 5,000/-  
In case the applicant has deposited a sum of Rs. 5000/-  
which shall be refunded by the department to the applicant  
within a period of 2 months and after that period  
the department will pay interest of 12% per annum  
also to the applicant till the date the said amount  
is not refunded. No order as to cost.

  
Member R-A

  
Vice-Chairman

Lucknow dated: 1.2.993

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