

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE TA-1952/87 of 19
M.C.No.704/91 W.P.No.5240/85

Name of the parties P.N. Tiwari

..... Applicant.

Versus,

..... Union of India & Ors. Respondents

Part A

Description of documents

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.....

.....

.....

SEARCHED.....

Certified that no further order is required to be given and this sheet is fit for
posting to the record room (Dealing)

Date :

Counter-signed

Reena JN

Section Officer/Court Officer.

Signature of the
Dealing Assistant

Am 10/8/11

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

FORM OF INDEX

~~O.A./T.A./R.A./C.C.P./ No. 1957/87/87~~
Q.N. Tewari vs O.O.

PART - I

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2/8/92
D.Y. Registrat

2/8/92
Supervising Officer
(K.M. K.D.)

2/8/92
Dealing Clerk

2/8/92
Dealing Clerk

2/8/92
Carisch Gurdan

V.K. Mishra

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD ,

(LUCKNOW BENCH) , LUCKNOW

WRIT PETITION NO. 5740 OF 1985

b/c

P.N.Tiwari aged about 45 years 2/0

Late Shri Ram Pratap Tiwari 2/0

Village Kila, P.O. Lakhori via

Suhawal RS , Distt Faizabad Petitioner .

Versus

1. Union of India through Secretary to
the Ministry of Communication, Govt
of India , New Delhi .

2. Postmaster General , U.P. Circle, Lucknow

3. Regional Director Postal Services, Lucknow
Region Lucknow.

4. Superintendent of Post Offices Gonda
Division , Gonda .

5. Shri C.N.Saxena, Inquiry Officer, the then
A.S.P.(Inquiry) II O/O P.M.G., U.P. Circle
Lucknow and now Asstt Superintendent
Posts Offices Lucknow West Lucknow.

6. Superintendent of Post Offices Faizabad
Division, Faizabad Opposite Parties .

Petition under Article 226 of the Constitution of
India .

The humble petitioner begs to submit as under :-

Taken up on
21.8.85
Ordered
for up in
January 1986

3/11/85

10/12/90

①

A/
2

Hon. Mr. Justice K. Neth, V.C.
Hon. Mr. K. Obayya, A.Y.

* Admit.

A request for adjournment
is made on behalf of
Shri K.C. Sinha for respondents.

Counts may be filed
within four weeks to
which the applicant may
file a rejoinder within
two weeks thereafter.
List before the D.C.T.
on 28/1/91 for fixing
a date for final hearing
after the completion
of the record.

J
A.Y.

R
V.C.

(3)

23.2.91

D.R.

Both the parties
are absent today.
Counter has not
been filed till
today by the respon-
dent's side.

Respondent to
file it, by 26/3/91

AKS.R.P
22/2/91

26.3.91
D.R.

Mr. M. Dubey appears for
the applicant. Respondent's
side is absent today.
Respondent is directed

to file counter by 25.4.91

21.4.91
D.R.

Both the parties are present
Respondent is directed

to file counter by 24.5.91

✓

24.5.91
D.R.

Both the parties are
absent today. Respondent
to file counter by 27/6/91.

27.6.91

D.R.

Applicant's counsel
Sri M. Dubey is present.
Counter has not been
filed so far. Respondent
to file it, by 10/7/91.

(4)

T.A. 1957/87

10.7.91
D.R.

A/
u

Sri M. Dubey Ad.

counsel for the
applicant is present

No appearance has
been made on behalf
of the Respondent
case is listed on
25/7/91 for filing
counter by the O.P.

25.7.91
D.R.

Applicant's counsel
is present. O.P. is
absent. List the
case for filing counter
before no on 26.9.91.

26.9.91
D.R.

counsel for the applicant
is present. case is listed
on 21.10.91.

21.10.91
D.R.

counsel for the applicant is
present. Respondent to file
counter by 6/11/91.

(S)

6.11.91

D.R.

counsel for the
applicant is
present. Counter
has not been filed
till today. O.P. to file
counter by 29/11/91.

✓
29.11.91

D.R.

counsel for the
applicant is present.
He has also been
filed an application
for Ex parte order
on 14.11.91. O.P.
is absent. Case is
listed on 12/12/91
for hearing before
the Hon. Bench.

AKD
29/11/91
SO.

12.11.91

Dir. to Sad demolition
Sr. B.D. Chaitin Devn.
before made by baddo
Generally 13.12.91

PMG

13.12.91

Attn. Justice G.C. Sirc

Counter may filed within
4 weeks to which the
Officer may file rejoinder
within 2 weeks thereafter
for hearing on 02.12.91

⑥

T.A. 1955/182.T

4/5

10.2.92

No. 8/1955/182.T

18.2.92 Hon. Mr. S. N. Prasad, J.M.

case called out. Shri M. D. Gaj
learned counsel for the applicant
is present. None responds on
behalf of respondents despite repeated
calls at intervals. Not this
case ~~before~~ Division Bench for
order or respect of M.P. No. 704
of 91 before Division Bench on 9.3.92

J

J.M.

J

9.3.92 Hon. Mr. S. N. Prasad, J.M.

case called out. None responds
on behalf of either of the
parties. Lawyers are on
strike today. Not this case
for orders in respect of # of
M.P. No. 704/91 on 28.3.82.

J

J.M.

J

(7)

28-3-92

Hon. Mr. S. N. Prasad, J.M.

case called out several times at intervals. Hon. member on behalf of applicant. The learned council for respondent has sought adjournment on the ground of his illness. but this case for ^{in respect of} orders ~~on~~ M.P. No. ⁷⁰⁴ ~~707~~ / 91

on 27-4-92.

2

J.M.

D

27-4-92 Hon. Mr. S. N. Prasad J.M.

case called out. Sir M. Dasey learned council for the applicant has sought adjournment on the ground of illness and has simultaneously prayed for casting of this case before division Bench, as the matter involved in this case requires consideration by division Bench. Having perused the content of the application as in view of subject matter

PTO.

(8)

T.A 1957/87

Contd--

involved in this case, I concede to the request of the learned counsel for the applicant to list this case before Division Bench on 8-7-92 for orders of and disposal of M.P. No. 704/91.

J.M.

J.M.

8-7-92

No Siting of D.M. adjm
19-8-92

d

19-8-92

No Siting of D.M. adjm
to 24-8-92

d

O.P.

case is submitted
for orders before
the Hon. Bench
for disposal on
M.P. 704/91

S. F. R.

8
19/8/92

TR 1959/87(T)

PK (9)

24/8/92

Hon. Mr. Justice W. S. Venkateswara V.P.
Hon. Mr. K. Obayya A.M.

Judgment has been detailed
in open Court

L

W

A.M.

V.E.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

O.A. NO

199 (L)

T.A. NO

1957/87 (T)

Date of Decision 24/8/92

P. N. Tiwari

PETITIONER.

Advocate for the Petitioner(s)

VERSUS

Union of India & others

RESPONDENT.

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice U-E Sehgal, V.C.

The Hon'ble Mr. K. Chayya, 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 Lordships wish to see the fair copy of the Judgment?
4. Whether to be circulated to other benches?

Vice-Chairman/Member

CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW.

M.P. No. 704/91

T.A. No. 1957/87 (T)

(W.P. No. 5740/85)

(10) ✓

P.N. Tiwari 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.)

By this application the applicant has challenged the entire departmental proceedings and the orders passed during those proceedings and has prayed that he may be promoted with effect from 10-5-82 to L.S.G. cadre, which he would have been, if departmental proceedings would not have been started. Shri K.C. Sinha, learned Counsel for the respondents states that this application has become infructuous. Learned Counsel for the applicant has produced the copy of the order dated 29-9-57 before us which indicates that the applicant has been exonerated from the charges levelled against him, with the result that the departmental proceedings has automatically come to an end. In view of the fact that the Enquiry Committee has now come to an end the respondents will now consider the claim of the applicant for promotion with effect from due date. Let this consideration be done within a period of two months from the date of communication of this order, with effect from due date, as if there would have been no enquiry against him. In case the applicant is promoted he will be entitled to

62

JP

4/6

-2-

all consequential benefits. The application stands disposed of finally in the above terms. No order as to the cost.


R. Bhupinder Singh
Member (A)


L.W.

Vice-Chairman.

Dated: 24th August, 1992, Lucknow.

(tgk)

X/10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,
CIRCUIT BENCH, LUCKNOW
T.A. No. 1957/87T M.P. 704/91

P.N. Tiwari Applicant
Versus
Union of India and others Respondents

Fixed for 29.11.91

The applicant respectfully states as under :-

1. That the above noted case has been pending since long and the respondents have not filed counter affidavit/written statement so far despite several adjournments, which indicates that either they are not willing to file any reply or are intentionally delaying the matter to cause harassment and vexation to the applicant.
2. That it would be expedient in the interest of justice that the Hon'ble Tribunal considers ex-parte hearing of the case in absence of counter affidavit/written statement.

It is, therefore, most respectfully prayed that the case be placed before the Bench for its ex-parte hearing.

Lucknow :

Dated 14.11.91

M. Dulay
Adv
COUNSEL FOR THE APPLICANT

IN THE HIGH COURT OF JUDICATURE OF ALLAHABAD 3

(LUCKNOW BENCH) LUCKNOW X

WISCE CIVIL APPLICATION NO. 574 OF 1985

In

WRIT PETITION NO. 574 OF 1985

P.N. Tiwari

.. Petitioner

Versus

Union of India and Others

.. Opp. Parties

Application for interim relief

The humble applicant states as under :-

That for reasons given in the Writ Petition, it is most respectfully prayed that the Hon'ble Court be pleased to grant an interim mandamus commanding the opposite parties to post the petitioner in the Lower Selection Grade cadre in compliance with the order dated 10.5.1982, Annexure 2 and pass an ad-interim order immediately in the same terms.

lucknow

31.10.85

of Counsel

For Applicant/Petitioner

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD , 52

(LUCKNOW BRANCH) , LUCKNOW,

WRT PETITION 574² OF 1985

P.N.Tiwari

.. .. Petitioner

Versus

Union of India & Others

..Opp. Parties .

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Lucknow Vakalatnama.			50 to 51

31.10.1985

Counsel For Petitioner

4/3

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD ,

(LUCKNOW BENCH) , LUCKNOW

WRIT PETITION NO. OF 1965

6/c

P.N.Tiwari aged about 45 years S/O

Late Shri Ram Pratap Tiwari R/O

Village Kila, P.O. Lakhori via

Suhawal RA , Distt Faizabad . . . Petitioner .

Versus

1. Union of India theurth Secretary to

the Ministry of Communication, Govt

of India , New Delhi .

2. Postmaster General , ~~U.P. Circle~~ Lucknow

3. Regional Director Postal Services, Lucknow

Region Lucknow.

4. Superintendent of Post Offices Gonda

Division , Gonda .

5. Shri C.R.Saxena, Inquiry Officer, the then

A.C.P. (Enquiry) II O/O P.S.G., U.P.Circle

Lucknow and now Asstt Superintendent

Posts Offices Lucknow West Lucknow.

6. Superintendent of Post Offices Faizabad

Division, Faizabad . . . Opposite Parties .

Petition under Article 226 of the Constitution of
India .

The humble petitioner begs to submit as under :-

Given up on
in 11.85 b/w
Ordered
for up in
January 1986
4/11/85

1. That the petitioner was appointed as a Postal Assistant in the scale of Rs 260 - 480 under Opposite Party No 1 in the Postal Division Gonda in the year 1964 (2nd May 1964) and ever since his appointment, his work and conduct were satisfactory without any adverse comment, what so ever from any quarter. The petitioner was confirmed in the grade w.e.f. 1.3.1966.
2. That the next promotion from the post of Postal Assistant is to the grade of Lower Selection Cadre in the scale of Rs 425-640. The manner of promotion to this grade is on the basis of seniority cum fitness and the ~~of~~ promotion is by seniority and ~~of~~ by examination.
3. That the petitioner appeared at the examination for promotion to the Lower Selection grade against 3rd quota of vacancies for 1979-80 held on 15th February 1981 and was declared successful vide Postmaster General U.P. Circle Lucknow memo no Recd/ 0-85/79-80/2ch II dated 15.10.81 and intimation to this effect was given to the petitioner by Opposite Party No 4 under his memo no B-4/LSG/Exam dated 21.10.81. A true copy of this memo dated 21.10.81, ~~A true copy of this memo dated 21.10.81~~ is annexure 1 to this Writ petition.
4. That ~~the~~ in pursuance of the P.M.G.U.P. Circle memo

X
M

no STA/12 X A/LSG/1/ 3rd/79-80/7 dated 5.5.82

ordering promotion and allotment of officials to
L.S.C. Cadre against ½ quota , the petitioner was
promoted to the L.S.C. grade and ordered to be
posted as L.S.C. Asstt at Faizabad Head Office
by Opposite Party No 6 vide his memo no B-17/Genl
dated the 10.5.82 . A true copy of this memo dated
10.5.82 is Annexure 2 to this writ petition . This
order has not been cancelled and stands even
today .

5. That the petitioner was not relieved from his post
as Postal Assistant Gonda Bus station Post Office
Gonda to enable him to join his new assignment
as L.S.C. Assistant Faizabad Head Office by the
Opposite Party No 4, so he submitted an applica-
tion to the Opposite Party No 4 and in reply he was
informed by letter dated 30.6.82 that departmental
case was pending against the petitioner and the
matter was being referred to the P.M.G. U.P.Circle
Opposite Party No 2 , for decision and on its
receipt action for relieving of the petitioner
would be possible . A true copy of letter dated
30.6.82 is Annexure 3 . It would be pertinent to
state that the petitioner was never informed of
the decision taken by the P.M.G. U.P.Circle . It
is further relevant to point out that the appoint-
ing and disciplinary authority of the petitioner is

the Superintendent of Post Offices and not the

P.M.O.

6. That the petitioner had earlier been served with a charge sheet by Opposite Party No 4 under his memo no P-15/76-77/2 dated the 21.12.78, under htn Rule 16 of the OCS(OCA) Rules 1965, wrongly alleging that due to improper working of the petitioner as S.P.M.Belsar Sub Office, (Gonda), the Government was put to a loss of Rs 36300/- The petitioner was not at all concerned with this alleged loss, which related to the period much before the petitioner was posted as sub-Postmaster Belsar on 1.7.76. The petitioner's predecessor Shri Ram Dhiraj Pandey had committed fraud, as Sub Postmaster Belsar to the tune of over Rs 85000/- odd and during the period of stay of the petitioner as S.P.M. Belsar from 1.7.76 to 27.11.76, this loss of over Rs 85000/- was reduced to Rs 36300/- only A true copy of the charge sheet is annexure 4.

7. that the petitioner submitted a representation dated 21.3.1979, against the aforesaid charge sheet stating that he was not at all responsible for the alleged loss and that he had not been given reasonable opportunity by not providing copies of statements of all relevant witnesses including Shri Ram Dhiraj Pandey the then S.P.M.

- 5 -

D/F

Belmar. That the petitioner was quite innocent and deserved sympathy and justice in straight way without twisting the matter. A true copy of the representation dated 21.3.79 is annexure 5.

8. That the Opposite Party No 4 without appreciating the petitioner's representation and without giving it due consideration passed biased and arbitrary order vide his memo no P-15/76.77/2 dated the 31.3.79 and ordered recovery of a sum of Rs 4752/- recoverable in 36 monthly instalments of Rs 132/- *without any foundation. No loss was* each caused to the department by the petitioner. The order of recovery was unjust, biased and arbitrary. A true copy of the order dated 31.3.79 is annexure-6.

9. That the petitioner having been aggrieved by the aforesaid order of recovery of Rs 4752/- submitted an appeal dated 26.5.79 to the Director Postal Services U.P., East Lucknow, a true copy of which is annexure -7.

10. That the appellate authority, Opposite Party No 3, was under an obligation to follow the provisions of clauses (a)(b) and (c) of Rule 27(2) and to give reasons and discuss the evidence on record. He had a legal duty to deliberate about merit and adjudge it before passing any order. But the Opposite Party No 3 without discussing the evidence on records and the points raised in the petitioner's appeal, arbitrarily ordered by his memo dated 25.9.81 for hold-

ing of enquiry under Rule 14 of CCS(CCA) Rules 1965

and remitted the case back to the Opposite Party No

4 for de novo proceeding from the stage of issue of

charge sheet under Rule 14 of CCS(CCA) Rules 1965.

This was a direction from the appellate authority

to the disciplinary authority to change the charge

sheet from Rule 16 to Rule 14 of CCS(CCA) Rules 1965,

which under the Rules be could not do. It was for

the disciplinary authority, Opposite Party No 4, to

apply his mind as to the gravity of the offence and

to proceed or not to proceed under Rule 14 or 16

(ibid) at his discretion. The appellate order

passed by Opposite Party No 3 is not a speaking

order unjust and uncalled. It is illegal arbitrary

and malicious and void. True copy of the said

appellate order dated 25.9.81 is Annexure -8.

11. That in compliance to the orders passed by the Opposite Party No 3 departmental enquiries were ordered to be held by Opposite Party No 4 vide his memo dated 22.3.83 and Shri O.R. Saxena, ASP(Enquiry) II office of P.M.C. U.P. Circle Lucknow was appointed as Inquiry Officer by his letter dated 19.4.83. In the circumstances the disciplinary authority viz Opposite Party 4 was not free to use his discretion

~~True copy of the charge sheet dated 22.3.83 is~~

12. That the first date of enquiry was fixed on 6.10.

83, when the petitioner challenged the validity of

X
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Charge sheet and the enquiry by his representation dated 3.10.83, a copy of which is Annexure 9. The objection of the petitioner was turned down without spelling out any reason and further dates of enquiry were fixed for inspection of documents, which continued up to 23.8.1984, but the inspection of documents could not be completed in absence of several documents which were not produced before the Inquiry Officer. A true copy of the daily order sheet dated 23.8.84 written by the Inquiry Officer is Annexure 10.

13. That no date of enquiry was fixed for along time after 23.8.84. The post of ASP(Enq) II O/O P.M.G. U.P. Circle Lucknow was subsequently abolished and Shri C.R. Saxena Opposite Party No 5 transferred to another post as ASPs Lucknow West sub Dn Lucknow. Shri C.R. Saxena having relinquished the post of ASP(Enq)II O/O P.M.G. U.P. Circle Lucknow, by which post he was appointed Inquiry Officer, is not now competent to hold further enquiry.
14. That Shri C.R. Saxena ASPs Lucknow West Sub Dn. Lucknow conducted enquiry without any authorisation on 12.8.85 but no proceedings were held as the concerning records were not produced on behalf of the prosecution. The petitioner is being unnecessarily harassed.
15. That the petitioner's promotion to the I.S.G. grade has been pending since Oct 1981 and the order of

of promotion dated 10.5.82 which still stands has not been given effect, through more than 3 years have passed. The petitioner passed the departmental examination for promotion against 3rd quota and was duly approved by the D.P.C. for his promotion and his promotion has been maliciously and arbitrarily held up, causing him financial loss and also mental worries which cannot be compensated in terms of money.

16. That the petitioner preferred a representation for his promotion to the Director Postal Services(HQ) O/O the P.M.G. Circle Lucknow on 4.8.84, but neither any reply to this representation was given to the petitioner, despite reminder nor he was relieved of his present post and posted in the L.S.G. grade at Faizabad as already ordered by memo dated 10.5.82 (Annexure 2) . A true copy of the representation dated 4.8.84 is Annexure - 13.
17. That the petitioner submitted a representation dated 21.5.85 to the Opposite Party No 2 for his promotion and allowance of his pay allowances and other benefits of the LSG grade from 10.5.82 , the date of his promotion, which still stands but no action appears to have been taken by him and no reply has been given to the petitioner. A true copy of the representation is Annexure 13.
18. That there are clear provisions with respect to

promotion pending departmental enquiry. It is the option of the Departmental promotion committee to promote or not to promote such a person or defer the consideration for a later date for reasons of pendency of proceedings. There is also a provision for review of cases of candidates whose names were deferred by the D.P.C. earlier. None of these provisions have been followed in the case of petitioner just to cause harassment and financial loss. The petitioner be deemed to have been promoted ^{order} w.e.f. 10.5.82 the date of either of the promotion and entitled to all claims including emoluments and privileges of the post of I.S.O. which have been wrongly denied to him.

19. That the appellate authority did not exercise his powers in consonance with the existing rules. ~~He~~ had the power to allow or reject the appeal, to vary the punishment or to remand the proceedings for enquiry a fresh; where delinquent public servant raises a grievance that the enquiry was not properly conducted. He could not issue direction to issue a charge sheet under Rule 14 instead of 16(ibid).
20. That the issue of a charge sheet for a major punishment after nullifying the earlier proceedings is prejudicial to the interest of the petitioner for ~~the interest of the petitioner for the authorities~~ are acting with a pre conceived motion in ^u much

AK/21

as they have already decided to impose major penalty before embarking upon a departmental enquiry. The appellate authority had the power to enhance the punishment by issuing a show cause notice afresh himself after passing a reasoned order. The appellate authority has acted in a prejudicial manner is as much as he has framed a mind without expressing it on the proceeding and finding of the disciplinary authority.

21. That the provisions contained in Rule 14 and 16 of the CCS(CCA) Rules 1965 are arbitrary and enable the disciplinary authority to discriminate between employee and employee similarly situated and are in contravention of provisions of Article 14 of the Constitution. Both these provisions taken together confer the power on the disciplinary authority to impose major and minor penalty prior to holding of any enquiry, which is against all canons of equity justice and fairplay.
22. That once the appellate authority had declared his mind to impose a major penalty which is clearly indicated in his order, the disciplinary authority will have no option to but to impose the major penalty on the petitioner at his dictate and the proposed enquiry under Rule 14 would only be a pretext to punish the petitioner. The petitioner has already undergone the hazards of departmental enquiry from 1978 to the present date. The long

period the petitioner has remained disturbed mentally and physically does not justify a fresh enquiry which has already been started without any rhyme or reason from 1983 and without making any headway sofar. The petitioner has been denied his promotion on account of these departmental enquiries though he passed the prescribed examination and was approved by the D.P.C.

23. That the promotion of the petitioner was due in 1982 when no proceedings were pending against him and a promotion order was actually passed on 10.5.82. The charge sheet giving rise to the present proceeding was issued to the petitioner in March 83, much after the promotion order had been passed. The petitioner could not avail of the said promotion as he was not relieved, with the result that the petitioner is suffering a recurring loss of over Rs 200/Per month and his juniors are becoming senior which would deny the petitioner further promotions and the future of the petitioner has been marred.

24. That the petitioner has no other remedy except to file this petition on the following amongst other:-

Grounds

(a) Because the entire disciplinary proceeding against the petitioner is malicious, un-authorised, illegal and void.

(b) Because the petitioner was promoted to the post of L.S.C. cadre against 1/rd quota after passing the

X
22

prescribed test and having been approved by the
D.P.O.

(c) Because the order of promotion dated 10.5.1982 still
subsists and the promotion has been withheld
arbitrarily and illegally.

(d) Because the petitioner has a legal claim to be
appointed in the L.S.C. grade w.e.f. 10.5.1982 and
payment of salary and other benefits in the said
grade from the same date.

(e) Because the Opposite Party No 4 and 3 have acted
illegally maliciously and arbitrarily in passing
orders against the petitioner.

(f) Because the petitioner is not at all liable for the
losses caused to the department prior to his posting
as S.P.M. Belsar Distt Gonda.

(g) Because the appellate authority Opposite Party No 3
failed to pass any reasoned, speaking and judicious
order.

(h) Because the direction given by the appellate authority , Opposite Party No 3, to the disciplinary authority Opposite Party No 4, for changing the charge sheet from Rule 16 to 14 is arbitrary and illegal.

(i) Because the opposite parties have failed to take
due notice of the representations submitted by the
petitioner.

(j) Because the action of the Opposite parties is

pervasive, contrary to law and fact and it cannot be sustained.

(k) Because the Opposite Party No 3 could not issue any directive to Opposite Party No 4 in matter of disciplinary proceedings to be taken against the petitioner under Rule 14 or 16 of the CCS(CCA) Rules 1965.

(l) Because the Opposite Party No 4 could not issue two separate charge sheets on the same subject one under Rule 14 and other under rule 16 of the CCS(CCA)1965.

(m) Because the Opposite party No 5 could not hold enquiry after having relinquished the office of ASPos . (Eng) II O/O P.M.G's office Lucknow by which post he was appointed as Inquiry officer.

Prayer

It is , therefore , most respectfully prayed that the orders dated 31.3.79 and 25.9.81 (Annexures 6 and 8) and the entire departmental proceedings based on the order dated 25.9.81 (Annexure 8) be quashed by means of a writ in the nature of Certiorari and a writ in the nature of mandamus be issued commanding the opposite parties to promote the petitioner with effect from 10.5.82 to the I.S.G. cadre and to pay his all emoluments including arrears of pay and benefits of the said post from date of 10.5.82

Issue any other
~~and issue any other~~ writ , order or direction deemed

just and proper in the circumstances of the case and this petition be allowed with cost.

Lucknow
31.10.1985

Counsel for Petitioner

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) , LUCKNOW

WHIT PETITION NO. OF 1985

(14)

P.N. Tiwari

..

Petitioner

Versus

Union of India & Others

.. Opposite Parties

Annexure No-1

INDIAN POSTS AND TELEGRAPHS DEPARTMENT
OFFICE OF THE SUPDT. OF POST OFFICES GONDA DIVISION
GONDA-271001.

Memo No B-4/LSG/Exam. dated at Gonda the 21.10.81

As a result of lower selection grade examination
1/3rd quota of vacancies for 1979-80 held on 15th
February, 1981. The following candidates of this Division
have been declared successful vide Post Master General
UP Circle Lucknow memo No Recd/G.85/79-80/2ch II dated
15.10.81.

'General Line'

Sl. No. RollNo. Name & Designation

1.	519	S/Sri P.N. Tiwari Postal Signaller Bus Station Post Office.
2.	529	" Krishna Dayal Tiwari SPM Civil Lines Gonda.
3.	534	" P.N. Tripathi O/A D.O. Gonda.
4.	536	" Deo Nath Tiwari P/A Gonda H.O.

'Accounts Line'

5. UP/P.O.&R.M.S Acc/GO/80 Sri Ram Dass Yadav Offg.
W.L.I. Bahraich.

Sd/
Supdt. of Post Offices,
Gonda Division
Gonda- 271001.

Copy to:-

- 1-5. The Official concerned.
- 6-10 P.P. of the Official
- 11-13 The PM Gonda/Bahraich/Balrampur alongwith spare copies for S/Book of the Official
14. The SPOs Bahraich for information. The official at serial No 5 is working under him.
15. D.O. File B-4/LSG
16. D.O. File B-3/Acctt.

17. Accountant D. S. Gonda.

18-25 Spare.

X/S

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD,

(LUCKNOW BENCH), LUCKNOW. (16)

WRIT PETITION NO. OF 1985.

P.N. Tiwari

.. Petitioner

Versus

Union of India & Others

.. Opposite Parties

Annexure No 2

INDIAN POSTS AND TELEGRAPH DEPARTMENT
O/O the Sr. Supdt. of Post Offices.
Faizabad Division.

Memo No. B-17/Genl dated at Faizaba^h, the, 10.5.82

In pursuance of the P.M.G.U.P.Cir-Dir Lucknow Memo No. STA/12-XA/LSG/1/3rd/79-800/7 dt.5.5.82 ordering promotion and allocation of officials to LSG cadre against 1/3 quota, the following transfers and postings are hereby ordered with immediate effect.

1. Shri Ram Achal Misra P.A. Muzinagar to be officiating LSG ASSTT. Akbarpur H.O. against the vacant Post.
2. Shri P.N. Tiwari P.A. Gonda Division to be officiating LSG Asstt. Faizabad H.O.
3. Shri Babulal (SC) P.A. Gonda Division to be officiating LSG Asstt. Akbarpur H.O. against the Vacant Post

They should clearly understand that this promotion will not confer on them any right for regular absorption in the cadre to which they have been promoted.

Orders to fillup the vacancies caused due to promotion of the above mentioned officials is under issue separately.

Charge report should be submitted to all concerned.

Sd/

Sr. Supdt of Post Offices
Faizabad Division

Copy issued to:-

- 1.3) The officials.
- 4.6) The PF of the officials.

7,9) The PMs Faizabad/Akbarpur/Gonda.

(17)

10) The SPM Motinagar. He will please relieve the official on office arrangement.

11) The SPOs Gonda Dn. He will kindly receive immediately.

12) The P.M.O.U.P. Circle Lucknow 226001

13,14) O/C and Spars.

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(19)

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW BENCH), LUCKNOW

WRIT PETITION NO. OP 1985

P.N. Tiwari Versus U.O.I. & Others

Annexure - 4

1
INDIAN POSTS & TELEGRAPH DEPARTMENT

OFFICE OF THE S.P.D.T. OF POST OFFICES CO'DA DIVISION GONDA.

Memorandum No. P-15/76-77/2 dated at Gonda the 21.12.78

Shri Paras Nath Tiwari designation clerk(office in which working
Bus Station is hereby informed that it is proposed to take action against
him under Rule 18 of the COS(CCA) Rule 1965. A statement of the imputations
of misconduct or misbehaviour on which action is proposed to be taken
as mentioned above is enclosed.

2. Sri Paras Nath Tiwari is hereby given an opportunity to make
such representation as he may wish to make against this proposal.

3. If Shri Paras Nath Tiwari fails to submit his representation within
10 days of the receipt of this memo, it will be presumed that he has not
representation to make and orders will be liable to be passed against
Shri Paras Nath Tiwari ex parte.

4. The receipt of this memo should be acknowledged by Shri
Paras Nath Tiwari.

(By order and in the name of the President)

sd/(illegible) signature

Name & designation of the Competent authority

Copy to:-

1. Shri Paras Nath Tiwari clerk Bus Station P.O.Gonda.
2. P.C. of the official.
3. Vigilance statement file.
4. Spare.

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STATEMENT OF IMPOSITIONS OF MISCONDUCT AND MISBEHAVIOUR
AGAINST SRI PARSU MATH TRUST CLERK PMS STATION P.O. GOPTA.

Sri Parsu Math Tewari worked as PMS Pulsar 50 consta on the dated noted in the following accounts:-

1. Two deposits for Rs.1100/- dated 27.11.75 and 1450/- dated 20.6.76 were accounted and entered in the pass book of Pulsar SP a/c No. 866611 by Sri R.D. Pandey but were not accounted for on those dates. The deposit dated 27.11.75 was accounted for by Sri Pandey SPM on 17.2.76 while the deposit dated 20.6.76 was accounted for by Sri P.M. Tewari the successor of Sri Pandey on 2.8.76 after realising the money from Sri R.D. Pandey privately without production of the pass book and deposit slip. Sri P.M. Tewari while working as SPM on 2.8.76 also failed to report the matter to the SPG and thus managed to settle the issue privately at his level concealing the fraud, case.
2. A deposit of Rs. 1500/- accepted by Sri R.D. Pandey SPM Pulsar on 17.5.76 was entered in the pass book of Pulsar SP a/c No. 26675 by him. The same was not accounted for on that date. Thereafter the depositor withdrew Rs. 850/- on 28.6.76. Sri Pandey did not enter the withdrawal in the pass book on that date and also did not account for the same as the earlier deposit of Rs. 1500/- was not taken into account till then. He paid the money from his pocket to the depositor. Sri Pandey was relieved after this stage. The depositor made further withdrawal of Rs.1000/- on 17.7.76 and Rs.400/- on 28.8.76. On both the occasions Sri Ram Sajwan SP Clerk received the applications for withdrawal and firing that the deposit of Rs.1500/- appearing in the pass book was not accounted for, called Sri R.D. Pandey former SPM. Sri Pandey paid the amounts of two withdrawals which were handed over to the depositor on the two dates. The withdrawal forms were kept by Sri Ram Sajwan clerk without accounting for the same or entering in the pass book. The fact of non credit of Rs. 1500/- deposited on 17.5.76 was not reported to the SPG's by the SP clerk Sri Ram Sajwan Mishra. After the withdrawal of Rs. 400/- on 28.8.76 the deficit was covered and as such the amount of deposit of Rs. 1500/- was taken into account by Sri Ram Sajwan Mishra on 28.8.76 itself in the previous day's account dated 27.8.76. The withdrawals of Rs.850/-, 1000/- and Rs. 400/- were then accounted for on 28.8.76, 30.8.76 and 31.8.76 respectively and the entries of the deposit of Rs. 1500/- and three withdrawals were also taken into account by the SPM Sri P.M. Tewari and entries thereof were signed as SPM in the pass book, ledger and L.O.T. In absence of the deposit slip and with manipulations in the date stamp impression against these entries, the withdrawal of Rs. 850/- is affixed with its distinct date stamp impression. Against the entries of withdrawals of Rs. 1000/- and 400/- the date stamp impressions are clear but the dates therein have been overfigured in ink from 28.6.76 to 27.8.76 in the impression against the entry of withdrawal of Rs. 1000/- and the date remains unchanged as 28.6.76 against the entry of withdrawal of Rs. 400/-. The first two withdrawal forms were undated and the dates as 28.8.76 and 30.8.76 respectively were put below the initial made in taken of compilation of signatures of depositor. The withdrawal form for Rs. 400/- was however given with some date which was overfigured as 31.8.76. Thus Sri P.M. Tewari allowed accounting for back dated transactions without deposit slip and with manipulated date stamp impression. He also failed to report the matter to the SPG's and hurried up the fraud case.
3. Two deposits for Rs. 6000/- dated 22.4.76 and Rs. 180/- dated 10.7.76 were accounted first by Sri R.D. Pandey SPM and entries thereof were made by him in Pulsar SPM P. M. 82009 but did not account for those two deposits till his relief from the post of SPM Pulsar in July 1976. The depositor also deposited Rs.850/- in his a/c on 28.8.76 and

the entries of this do. not were completed by sri ram sajiwan mishra sp. clerk. Pelsar 30 cents in the pass book. sri mishra failed to account for this amount as the earlier two deposits were not accounted for as thereafter obtained. Rs. 5100/- from sri pandey former spm and accounted for the first two deposits on 27.8.76 without production of pass book and deposit slip. Thereafter he took into account the deposit of Rs. 650/- on 30.8.76 which was accepted by him on 26.8.76. sri ram sajiwan mishra thus hushed up the fraud once and settled the matter without making a report to the spm. this bamsnath tewari while working as spm pelsar on 27.8.76 and 30.8.76 also helped him in concealing the fraud by taking into account all the three transactions on 27.8.76 and 30.8.76 without pass book and deposit slips and by not reporting the matter to the spm's.

6. Two deposits for Rs. 200/- dated 26.8.76 and Rs. 2100/- dated 24.8.76 were accepted direct by sri R.D. Pandey SPM Pelsar and the entries thereof were made by him in Pelsar SPB No. 867849 but he did not account for till his relief from the post of SPM Pelsar. These two deposits were taken into account by sri ram sajiwan spm and sri P.N. Tewari on 6.9.76 and 7.9.76 respectively by obtaining the amount from sri R.D. Pandey without the pass book and deposit slips thereby concealing the fraud and not reporting the matter to the spm's.

7. Two deposits for Rs. 1700/- dated 4.11.75 and Rs. 1255/- dated 27.8.76 were accepted direct by the spm pelsar sri R.D. Pandey and the entries thereof were completed by him in the Pelsar SPBP No. 867308 on the same dates. The deposit of Rs. 1700/- dated 4.11.75 was accounted for by sri pandey spm on 1.12.75 while he did not account for the second deposit dated 27.8.76 till his relief from the post of spm pelsar. This amount was taken into account by sri ram sajiwan mishra sp. clerk and sri P.N. Tewari spm on 11.10.75 without the pass book and deposit slip by obtaining the money from sri pandey. They thus concealed the fraud and settled the issue in an unauthorised manner and also failed to report the matter to the spm's.

8. Two deposits for Rs. 2000/- dated 31.1.76 and Rs. 3000/- dated 14.2.76 were accepted by sri R.D. Pandey spm and entries thereof were made in the pass book of Pelsar spm /c No. 866607 by him but did not take into account till the date of his relief from the post of spm. Pelsar. The depositor also deposited Rs. 800/- in his account on 20.9.76 and the entries of this deposit were completed by sri ram sajiwan spm on that day in the pass book but he did not take it into account on that date seeing that earlier of two deposits were not accounted for by sri pandey the former spm. He obtained the amount from sri pandey and accounted for the same on 20.9.76 and 27.9.76 respectively and thereafter accounted for the deposit of Rs. 800/- on 18.10.76 accepted by sri ram sajiwan mishra on 20.9.76. Thus he hushed up the fraud by setting the issue at his own level in an unauthorised manner, took into account the deposits dated 31.1.76 and 14.2.76 without the pass book and deposit slip. Sri P.N. Tewari while working as spm pelsar SO, during the month of Sept. 1976 accommodated back dated three transactions without pass book and deposit slip and concealed the fraud. Sri P.N. Tewari while working as spm pelsar during Sept. 1976 also failed to report the matter to the spm's.

9. Sri R.D. Pandey spm accepted direct the deposits for Rs. 3000/- on 29.3.75 Rs. 1365 on 29.6.76, Rs. 405/- on 9.7.75 Rs. 1000/- on 27.8.75 and Rs. 500/- on 13.9.75 and completed entries on those dates in Pelsar spm pass book No. 865111 but did not account for the amounts on the dates. The same were taken into account by him on 27.5.75, 9.7.75, 16.7.75, 27.10.75 and 28.10.75 respectively. He also accepted deposits for Rs. 5000/- on 6.3.76 and Rs. 1000/- on 4.4.76 direct and completed entries thereof in Pelsar spm pass book No. 865111 but did not account for the amounts till his relief from the post of spm pelsar. These amounts were

1. accounted for by Sri Ram Sajwan Mishra SP clerk and Sri P.N. Tewari SPM on 14.9.76 and 15.9.76 respectively without the pass book and deposit slip by obtaining the amounts from Sri Pandey. Sri P.N. Tewari while working as SPM Pelsar on 14.9.76 and 15.9.76 thus concealed the fraud by setting the issue at his level in an unauthorised manner taking into account the amounts without the pass book and deposit slip. He also failed to report the matter to the SPO's Conda.

2. A deposit of Rs.1000/- was accepted direct by Sri R.D. Pandey SPM Pelsar on 22.6.76, entries thereof were completed in the Pelsar SP pass book No 868239 by him but the amount was not accounted for by him till his relief from the post of SPM Pelsar. This amount was taken into account by Sri Ram Sajwan SP clerk and Sri P.N. Tewari SPM Pelsar on 2.9.76 without the pass book and deposit slip. Sri P.N. Tewari while working as SPV Pelsar on 2.9.76 thus hushed up the fraud and settled the issue privately in an unauthorised manner. He also failed to report the matter to the SPO's Conda.

3. A deposit of Rs.2000/- was accepted direct by Sri R.D. Pandey on 2.3.76, entries thereof were completed by him in the Pelsar SP pass book No 868871 but did not take the amount into account till his relief from the post of SPM Pelsar SO. This amount was taken into account by Sri Ram Sajwan Mishra SP clerk and Sri P.N. Tewari SPM Pelsar on 19.7.76 without the pass book and deposit slip. Sri P.N. Tewari while working as SPV Pelsar SO on 19.7.76 thus hushed up the fraud and settled the issue privately in an unauthorised manner. He also failed to report the matter to the higher authorities.

4. Sri R.D. Pandey SPM Pelsar accepted direct the deposit of Rs.3300/- on 21.6.76 and completed the entries thereof in Pelsar SP pass book No 867265 on that date but did not take into account till his relief from the post of SPM Pelsar SO. This amount was taken into account by Sri Ram Sajwan Mishra SP clerk and Sri P.N. Tewari SPV Pelsar on 20.11.76 without the pass book and deposit slip. Sri P.N. Tewari while working as SPV Pelsar on 20.11.76 thus hushed up the fraud and settled the issue privately in an unauthorised manner. He also failed to report the matter to the higher authorities.

5. Deposits were accepted direct by Sri P.D. Pandey SPV Pelsar for Rs. 3000/- on 20.6.76 and Rs. 5550/- on 30.6.76 and the entries thereof were completed in the Pelsar SP pass book No 86672 by him but the amounts were not accounted for till his relief from the post of SPM Pelsar SO. This was detected by Sri Ram Sajwan Mishra savings Bank clerk and Sri P.N. Tewari SPV when the depositor attended the P.O. on 15.7.76 for withdrawal of Rs.1000/- since the two deposits were not accounted for, the withdrawal was allowed and money paid to the depositor but was taken into account only on 19.8.76 when the amount of two deposits were obtained from Sri Pandey and taken into account on 18.8.76 without the pass book allowed and amount paid to the depositor on 20.8.76 but the same was accounted for on 20.8.76 further one more withdrawal was allowed on 5.9.76 but was accounted for on 21.8.76. Thus the depositor was allowed three withdrawals but the same were accounted for only after getting the defrauded two deposits accounted for, thereby fully accommodating the misdeeds of Sri R.D. Pandey to conceal the frauds. Sri P.N. Tewari while working as SPV Pelsar on the above dates also failed to report the matter to the higher authorities.

(continued)

(23) 1/2

12. Two deposits were accepted direct by Sri R.D. Pandey SPM for Rs. 1763 on 25.11.75 and Rs. 1800/- on 25.6.76 entries thereof were completed by him in Palsar SP pass book No 865158 but the amounts were not accounted for by him on the said dates. The deposit dated 25.11.75 was taken into account by Sri Pandey on 18.2.76 while he did not account for at all the deposit dated 25.6.76 till his relief from the post of SPM Palsar SO. This amount was taken into account on 19.10.76 by Sri P.N. Tewari SPM without the pass book and deposit slip. Besides the above transactions there are two withdrawals of Rs. 1000/- on 20.2.76 and 1800/- on 20.10.76. Apparently the deposit dated 25.11.75 was taken into account on 18.2.76 to accommodate the withdrawal dated 20.2.76 and the deposit dated 25.6.76 was accounted for on 19.10.76 to accommodate the withdrawal dated 20.10.76. Thus Sri P.N. Tewari while working as SPM Palsar on 19.10.76 accounted for the deposit dated 25.6.76 without the production of pass book and deposit slip by obtaining the amount from Sri R.D. Pandey and concealed the fraud. He also failed to report the matter to the higher authorities.

13. A deposit of Rs. 1500/- entered by Sri R.D. Pandey SPM in the Palsar SP pass book No 860858 on 18.6.76 was not taken into account on that date. Sri Pandey was thereafter relieved from the post of SPM Palsar SO. This amount was accounted for on 19.7.76 without production of the pass book and deposit slip by Sri Ram Sajwan Mishra SP clerk in the list of transaction and by Sri P.N. Tewari SPM in the long book. Sri P.N. Tewari also signed as SPM against the entry in the register.

A deposit of Rs. 900/- entered in the pass book of above account No by Sri Ram Sajwan Mishra SP clerk on 15.7.76 and was signed by Sri P.N. Tewari as SPM. The amount was not taken into SP ledger, L.O.T. and his accounts by the SP clerk and was not incorporated in the Long Book by Sri P.N. Tewari SPM who also signed the pass book without entry in the ledger. It was done so because earlier deposit of Rs. 1600/- dated 18.6.76 was not accounted for till then. The deposit of Rs. 900/- was subsequently accounted for on 31.7.76 by Sri Ram Sajwan SP clerk and Sri P.N. Tewari SPM without production of pass book. Thus both the officials have fully accommodated the misdeeds of Rs. R.D. Pandey to conceal the frauds and settled the issue at his level in an unauthorised manner. Sri P.N. Tewari also failed to report the matter to the higher authorities.

Had the official worked according to rules and regulations as prescribed by the department, the fraud could have been detected during the month of July 1976 and the action would have been taken to get the permanent loss in the case, amounting to Rs. 36300/- in the following accounts recovered and the department saved from such heavy loss.

No.	Account No.	Amount	Date of deposit in the pass book and misappropriation.
	868694	1000.00	23.8.75
	888695	1000.00	23.8.75
	868654	10000.00	14.11.75
	888145	800.00	11.12.75
	116174	5000.00	21.2.76
	5609	4000.00	8.1.76
	870040	2000.00	20.5.76
	869477	9000.00	2.2.76 and 5.2.76
	867891	350.00	-
		<u>56300.00</u>	

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5.

Due to improper working of Sri P.N. Tewari as S.P.M. Pelsar so the amount of loss remained unadjusted. Thus the Govt. was put to a loss of Rs. 36300/- in this case.

It is therefore alleged that Sri Paras Nath Tewari is responsible for the following lapses on his part.

1. For taking into account the above noted amount in respective accounts without the base books and deposit slips infringing rule 424 of P&T Man. Vol. VI Part II.
2. Failure to observe the provisions as required under rule 404(4) of P&T Man. Vol. VI Part II.
3. Failure to report the matter to the Supdt. of Post Offices Gonda Dn. infringing rule 171 of P&T Man. Vol. V.
4. Failure to maintain devotion to duty infringing rule 3 of CCS (Conduct) Rules 1964.

Supdt. of Post Offices,
Gonda Division
Gonda-271001

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW.

(25) 1/1

WRT PETITION NO. OF 1985

P.N. Tiwari

.. Petitioner

Versus

Union of India & Others

.. Opposite Parties

ANNEXURE NO. - 2

To,

The Supdt. of Post Offices.

Gonda Division.

Gonda.

Sir,

With reference to your memo no. F15/76/77/2 Dated 21.12.78 I have the honour to submit the following for your Honour's favourable consideration and sympathetic orders.

1. I have been definitely handicapped in submission of my defence due to non-supply of material documents viz copies of ~~etc~~ the stt. of Shri Ram Sajwan Misra S.S.clerk , copies of Stt. of Shri Ram Dhiraj Pande copies of Stt. of respective depositors & copies of instructions circulated for introduction of pay in slip in S.B. Instant counter. These copies were relevant & necessary for defending myself as they directly or indirectly find place in the stt. of allegations & charges. The names of Shri Ram Sajwan SSSC & Shri Ram Dhiraj Pande Ex-SPM the depositors are mentioned in each para of the Stt. of allegations . The pay in slip forms the basis of the charge No. 1 . It is thus beyond facts that the copies. It is thus clear that I have been denied opportunity to defend myself adequately.

2. I have worked as SPM Belsar w.e.f. 1.7.76 to 27.11.76 only. The fraud cases relate long before to this date. No fraud or loss occurred during my tenure as SPM Belsar. It should have been appreciated that a huge amount of fraud was recovered directly or indirectly during my period. Instead of appreciation I have been awarded through this charge sheet. A summary of amounts made good is furnished below...:-

S.B. A/C 866611	1100/-
	1450/-
86675	1500/-
82009	6000/-

(26)

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	160/-
	950/-
867649	200/-
	2100/-
867305	1700/-
	1255/-
866607	2000/-
	3000/-
	800/-
865111	3000/-
	1365/-
	405/-
	1000/-
	500/-
868239	1000/-
868871	2000/-
867265	3300/-
86672	3000/-
	5350/-
865138	1763/-
	1500/-
866858	1600/-
	900/-

In this way a sum of Rs 46898/- was recovered or made good else the loss would have amounted to Rs. 46898/-, 36300/- and 85198/- I dont not claim regard . It was part of my duty to save the Govt. loss which was done without any ulterior motive. The question of helping the accused does not arise at all. As per your att. of allegations the net unrecovered loss comes to Rs.36300/- The Department may extdnd all help and cooeration to the accused to make good the Govt. loss.

These may not be brushed aside by terming it irrelevant to the charges as it relates to the facts. I can not be held responsible in any way for helping in the committal of fraud and mis approporation on the other hand all that can be alleged is that I was instrumental in saving the Govt. from a huge amount of loss. I feel this is never an offence for a faithful Govt. employee.

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The Fraud and misappropriation was long before I took over as SPM Belser several superior Officers visited and Inspected the office who failed to detect it. The culprit has been caught and all responsibilities rest with him.

The laws & rules are meant for honest officials. It would be unjust to draw for fetched conclusions to entangle innocent poor employees who are sincerely working under peculiar circumstances in the Deptt in my mind has collective responsibilities and to shift it on a particular official in this particular special unique type of fraud would be totally unjust and harsh.

3. It is to be mentioned that there has been no fraud or loss during my period as SPM Belser which I attribute to my sincerity & devotion to duty being inherent part of my legitimate duty & Proper working.

4. The charges levelled against me are dealt with as under :-

Charge No. 1 In this connection I have to refer to para 1 of this defence & item 8 of my request Dt. 30.12.78 for copies of instructions and documents which have been denied to me Vide your letter P 15/76/77/2 Dt. 9.1.79. I feel that Instant counter was introduced at Belser 30 and the SB clerk acted accordingly. The pay in slips were not supplied till then and he acted on the previous procedure of S.B. Acknowledgement without any challenge or error book extract from the H.O. In this way no irregularity appears to have been committed by me.

Charge No. 2. -- The matter was not brought to my notice by the SB CC to whom the duties of S.Bank were delegated. The counter transaction were performed by the SB CC as such the SPM did not come in any way so for deposits were concerned under Instant counter working. The rule therefore is inapplicable to me. Had it been brought to my notice as per rules I would have reported it to the SPos.

Few cases came to my notice as S.P.M. in which the accused Shri Ram Bhiraj Pande managed to make payments to the depositor and made good the Govt loss. Since the amount of loss was made good ~~in~~ to the satisfaction of the depositor without any compliant I could not report the facts to the Supdt as required under the rules. This was done in good faith without any ill motive of gain or other-wise. No intention of helping the accused was there. It was for the benefit of the public and the Govt to make good the loss to the deptt. In heavy work and error of

judgement I do admit that the case could not be reported to the supdt.

In this context I would like to state that this action in my part did not contribute in concealment of fraud. The fraud and mis-appropriation had already been committed. It was detected during my time. I worked hardly for 5 months. The fraud came to light during my time. The time lag in such cases does not count at all. After the case came to light during my time no positive results could be achieved from the accused by the deptt.

The only action taken so far are some voluntary credits or payments in shape of settlement of depositors deposits. Thus the non observance of this rule has not frustrated enquiries or has further added to the committal of fraud. All operations by the accused were completed. It was only postmortem of the case. My action has not put the Govt to loss. The loss was already there. The earlier detection would have yielded no tangible results.

It has not been mentioned in the chargesheet that as to how my working against the rules and regulations has put the Govt to the loss of Rs. 36300/- . The accused had already committed the fraud. During my period a huge amount was made good thus reducing the total loss to a comfortable position else it was to the time of above 86198/- and more. After detection of the case the efforts of the deptt. to adjust the loss have not been mentioned. No ways and means have been mentioned which were to be adopted by me to adjust the loss. The case came to the notice of the Supdt and result remained as it was before this action so far Govt loss is concerned . The charges of para 13th regarding my signature in the pass book SB a/c No 866858 in respect of deposit Rs 900/- on 18.7.76 is not liable against me because I have never signed in the said pass book on that date which is already mentioned in my statement dated 31.12.76.

Charge(4) It is the out-come of the above these charges. A very general and stereotyped one. I have laboured hard despite heavy work. The strength of the office has been increased to 2 clerks now due to volume of work. In my time only one clerk was there who was mostly on deputation.

The actual accused has been apprehended. The Deptt. by way of Justice should not punish innocent employees who have not in any way embezzled the amount. The accused

may be tackled under the rules to made good the amount instead of punishing the innocent employees in this special case.

I feel I have committed no offence nor do I have committed fraud. I am quite innocent in this case. The charges have been replied in straight way without twisting them.

Hope due care and Justice will be given to me before any adverse orders are passed against me.

I pray for an elaborate discussion parawise in my case in your decision insted of a sweeping Judgment for my consolation.

Hope for a fair and favourable decision for which I shall be ever grateful.

Dated:- 21.3.1979

Your's Faithfully

(Paras Nath Tiwari)
Clerk,
Bus Station Post Office
Gonda.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD ,
X/42

(LUCKNOW BENCH) LUCKNOW. (30)

WRIT PETITION NO OF 1985

P.N. Tiwari

Petitioner

Versus

Union of India and Others

.. Opposite Parties

Annexure No 6

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

OFFICE OF THE SUPDT. OF POST OFFICES GONDA DIVISION

Memo. No. P-15/76-77/2

Dated at Gonda the 31.3.79

Sri Paras Nath Tewari clerk Bus Station P.O. Gonda was informed under this office memo of even no. dated 21.12.78 that it was proposed to take action against him as required under rule 16 of COS(OGA) Rules 1965 on the basis of allegations reproduced below:-

Shri Paras Nath Tewari worked as SPM Belsar SO Gonda on the dated noted in the following accounts:-

1. Two deposits for Rs 1100/- dated 27.11.75 and 1450/- dated 29.6.76 were accepted and entered in the pass book of Belsar SB a/c No 866611 by Sri R.D. Pandey but were not accounted for by Sri Pandey SPM on 17.2.76 while the deposit dated 29.6.76 was accounted for by Sri P.N. Tewari the successor of Sri Pandey on 2.8.76 after realising the money from Sri R.D. Pandey ~~xxx2x8x16xnfaxxxnsaking~~ privately without production of the pass book and deposit slip. Sri P.N. Tewari while working as SPM on 2.8.76 also failed to report the matter to the SPOs and thus managed to settle the issue privately at his level concealing the fraud case.

2. A deposit of Rs 1500/- accepted by Sri R.D. Pandey SPM Belsar on 17.5.76 was entered in the pass book of Belsar SB a/c No 86675 by him. The same was not accounted for on that date. Thereafter the depositor withdrew Rs. 350/- on 28.6.76. Sri Pandey did not enter the withdrawal in the pass book on that date and also did not account for the same as the earlier deposit of Rs 1500/- was not taken into account till then. He paid the money from his pocket to the depositor Sri Pandey was relieved after this stage. The depositor made further withdrawal of Rs. 1000/- on 17.7.76 and Rs. 400/- on 28.8.76. On both the

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occasions Sri Ram Sajiwan SB Clerk received the applications for withdrawal and finding that the deposit of Rs 1500/- appearing in the pass book was not accounted for, called Sri R.D.Pandey former SPM Sri Pandey paid the amounts of two withdrawals which were handed over to the depositor on the two dates. The withdrawal forms were kept by Sri Ram Sajiwan clerk without accounting for the same or entering in the pass book. The fact of non-credit of Rs 1500/- deposited on 17.5.76 was not reported to the SPOs by the SB Clerk Sri Ram Sajiwan Mishra. After the withdrawal of Rs. 400/- on 28.8.76 the deficit was covered and as such the amount of deposit of Rs 1500/- was taken into account by Sri Ram Sajiwan Mishra on 28.8.76 itself in the previous days account dated 27.8.76. The withdrawals of Rs. 350/-, 1000/- and Rs. 400/- were then accounted for on 28.8.76, 30.8.76 and 31.8.76 respectively and the entries of the deposit of Rs. 1500/- and three withdrawals were also taken into account by the SPM Sri P.N.Tewari and entries there of were signed as SPM in the pass book, ledger and L.O.T. in absence of the deposit slip and with manipulations in the date stamp impression against these entries. The withdrawal of Rs 350/- is affixed with in distinct date stamp impression. Against the entries of withdrawals of Rs. 1000/- and 400/- the date stamp impressions are clear but the dates therein have been overfigured in ink from 26.6.76 to 27.6.76 in the impression against the entry of withdrawals of Rs. 1000/- and the date remains unchanged as 26.6.76 against the entry of withdrawal of Rs 400/-. The first two withdrawal forms were un dated and the dates as 28.8.76 and 30.8.76 respectively were put below the initial made in token of comprision of signatures of depositor. The withdrawal form for Rs. 400/- was however given with some date which was overfigured as 31.8.76. Thus Sri P.N.Tewari allowed accounting for back dated transactions without deposit slip and with manipulated date stamp impression. He also failed to report the matter to the SPOs and hushed up the fraud case.

3. Two deposits for Rs. 6000/- dated 22.4.76 and Rs 160/- dated 19.6.76 were accepted direct by Sri R.D.Pandey SPM and entries there of were made by him in Belsar SB P.B.No. 82009 but did not account for these two deposits till his relief from the post of SPM Belsar in July 1976. The depositor also deposited Rs 950/- in his a/c on 26.8.76 and the entries of this deposit were completed by Sri Ram Sajiwan Mishra SB clerk Belsar SO Genda in the pass

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book. Shri Mishra failed to account for this amount as the earlier two deposits were not accounted for. He thereafter obtained Rs 6160/- from Sri Pandey former SPM and accounted for the first two deposits on 27.8.76 without production of pass book and deposit slip. There after he took into account the deposit of Rs 950/- on 30.8.76 which was accepted by him on 26.8.76 Sri Ram Sajiwani Mishra thus hushed up the fraud case and settled the matter without making a report to the SPBs. Shri Paras Nath Tewari while working as SPM Belsar on 27.8.76 and 30.8.76 also helped him in concealing the fraud by taking into account all the three transactions on 27.8.76 and 30.8.76 without pass book and deposit slips and by not reporting the matter to the SPBs.

4. Two deposits for Rs. 200/- dated 26.2.76 and Rs. 2100/- dated 24.5.76 were accepted direct by Sri R.D. Pandey SPM Belsar and the entries thereof were made by him in Belsar SB P.B. No. 867649 but he did not account for till his relief from the post of SPM Belsar. These two deposits were taken into account by Sri Ram Sajiwani SPB and SPM Sri P.N. Tewari on 6.8.76 and 7.8.76 respectively by obtaining the amount from Sri R.D. Pandey without the pass book and deposit slips thereby concealing the fraud and not reporting the matter to the SPBs.

5. Two deposits for Rs. 1700/- dated 4.11.75 and Rs. 1255/- dated 27.6.76 were accepted direct by the SPM Belsar Sri R.D. Pandey and the entries thereof were completed by him in the Belsar SB PB No. 867305 on the same dates. The deposit of Rs. 1700/- dated 4.11.75 was accounted for by Sri Pandey SPM on 1.12.75 while he did not account for the second deposit dated 27.6.76 till his relief from the post of SPM Belsar. This amount was taken into account by Sri Ram Sajiwani Mishra SB Clerk and Sri P.N. Tewari SPM on 11.10.76 without the pass book and deposit slip by obtaining the money from Sri Pandey. They thus concealed the fraud and settled the issue in an unauthorised manner and also failed to report the matter to the SPBs.

6. Two deposits for Rs. 2000/- dated 31.1.76 and Rs 3000/- dated 14.2.76 were accepted by Sri R.D. Pandey SPM and entries thereof were made in the pass book of Belsar SB a/c No. 866607 by him but did not take into account till the date of his relief from the post of SPM Belsar. The depositor also deposited Rs 800/- in his account on 20.3.76 and the entries of this deposit were completed

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by Sri Ram Sajwan clerk on that day in the pass book but he did not ~~any~~ take it into account on that date seeking that earlier of two deposits were not accounted for by Sri Pandey the former SPM. He obtained the amount from Sri Pandey and accounted for the same on 20.9.76 and 27.9.76 respectively and thereafter accounted for the deposit of Rs. 600/- on 16.10.76 accepted by Sri Ram Sajwan Mishra on 20.9.76. Thus he hushed up the fraud by settling the issue at his own level in an unauthorised manner took into account the deposits dated 31.1.76 and 14.2.76 without the pass book and deposit slip. Sri P.N.Tewari while working as SPM Balsar SO during the month of Sept 1976 accommodated back dated three transactions without pass book and deposit slip and concealed the fraud. Sri P.N. Tewari while working as SPM Balsar during Sept. 1976 also failed to report the matter to the SPOs.

7. Sri R.D.Pandey SPM accepted direct the deposits for Rs 3000/- on 29.3.75 Rs 1365/- on 29.6.76, Rs 405/- on 9.7.75 Rs. 1000/- on 27.8.75 and Rs. 500/- on 13.9.75 and completed entries on these dates in Balsar SB Pass book No. 865111 but did not account for the amounts on the dates. The same were taken into account by him on 27.5.75, 9.7.75, 27.10.75 and 26.10.75 respectively. He also accepted deposits for Rs. 3000/- thereof in Balsar SB pass book No. 865111 but did not account for the amounts till his relief from the post of SPM Balsar. These amounts were accounted for by Sri Ram Sajwan Mishra SB Clerk and Sri P.N.Tewari SPM on 14.9.76 and 15.9.76 respectively without the pass book and deposit slip by obtaining the amounts from Sri Pandey. Sri P.N.Tewari while working as SPM Balsar on 14.9.76 and 15.9.76 thus concealed the fraud by settling the issue at his level in an unauthorised manner taking into account the amounts without the pass book and deposit slip. He also failed to report the matter to the SPOs Gonda.

8. A deposit of Rs. 1000/- was accepted direct by Shri R.D.Pandey SPM Balsar on 22.6.76, entries thereof were completed in the Balsar SB pass book No. 868239 by him but the amount was not accounted for by him till his relief from the post of SPM Balsar. This amount was taken into account by Sri Ram Sajwan SB clerk and Sri P.N. Tewari SPM Balsar on 2.9.76 without the pass book and deposit slip. P.N.Tewari while working as SPM Balsar on 2.9.76 thus hushed up the fraud and settled the issue

privately in an unauthorised manner. He also failed to report the matter to the SPOs Gonda.

9. A deposit of Rs. 2000/- was accepted direct by Sri R.D.Pandey on 2.3.76, entries thereof were completed by him in the Belcar SB pass book No 868871 but did not take the amount into account till his relief from the post of SPM Belsar S.O. This amount was taken into account by Sri Ram Sajwan Mishra SB clerk and Sri P.N.Tewari SPM Belsar on 19.7.76 without the pass book and deposit slip. Sri P.N.Tewari while working as SPM Belsar S.O. on 19.7.76 thus hushed up the fraud and settled the issue privately in an authorised manner. He also failed to report the matter to the higher authorities.

10. Sri R.D.Pandey SPM Belsar accepted direct the deposit of Rs. 3300/- on 21.6.76 and completed the entries thereof in Belsar SB pass book No. 867265 on that date but did not take into account till his relief from the post of SPM Belsar S.O. This amount was taken into account by Sri Ram Sajwan Mishra SB clerk and Sri P.N.Tewari SPM Belsar on 20.11.76 without the pass book and deposit slip. Sri P.N. Tewari while working as SPM Belsar on 20.11.76 thus hushed up the fraud and settled the issue privately in an unauthorised manner. He also failed to report the matter to the higher authorities.

11. Deposits were accepted direct by Sri R.D.Pandey SPM Belsar for Rs. 3000/- on 20.6.76 and Rs 5350/- on 30.6.76 and the entries thereof were completed in the Belcar SB pass book No. 86672 by him but the amounts were not accounted for till his relief from the post of SPM Belsar S.O. This was detected by Sri Ram Sajwan Mishra Saving Bank clerk and Sri P.N.Tewari SPM when the depositor attended the P.O. on 15.7.76 for withdrawal of Rs 1000.00 since the two deposits were not accounted for the withdrawal was allowed and money paid to the depositor but was taken into account only on 19.8.76 when the amounts of two deposits were obtained from Sri Pandey and taken into account on 16.8.76 without the pass book and deposit slip. Similarly another withdrawal of Rs. 3000/- was allowed and amount paid to the depositor on 20.7.76 but the same was accounted for on 20.8.76. Further one more withdrawal was allowed on 5.8.76 but was accounted for on 21.8.76. Thus the depositor was allowed three withdrawals but the same were accounted for only after getting the defrauded two deposits accounted for, thereby fully

accommodating the misdeeds of Sri R. D. Pandey to conceal the frauds, Sri P.N. Tewari while working as SPM Belsar on the above dates also failed to report the matter to the higher authorities.

12. Two deposits were accepted direct by Sri R. D. Pandey SPM for Rs. 1763/- on 25.11.75 and Rs. 1500/- on 25.6.76, entries thereof were completed by him in Belsar SB pass book No. 865138 but the amounts were not accounted for by him on the said dated. The deposit dated 25.11.75 was taken into account by Sri Pandey on 18.2.76 while he did not account for at all the deposit dated 25.6.76 till his relief from the post of SPM Belsar S.O. This amount was taken into account on 19.10.76 by Sri P.N. Tewari SPM without the pass book and deposit slip. Besides the above transactions there are two withdrawals of Rs. 1000/- on 20.2.76 and 1500/- on 20.10.76. Apparently the deposit dated 25.11.75 was taken into account on 19.10.76 by Sri P.N. Tewari SPM without the pass book and deposit slip. Besides the above transactions there are two withdrawals of Rs 1000/- on 20.2.76 and 1500/- on 20.10.76. apparently the deposit dated 25.11.75 was taken into account on 18.2.76 to accommodate the withdrawal dated 20.2.76 and the deposit dated 25.6.76 was accounted for on 19.10.76 to accommodate the withdrawal dated 20.10.76. Thus Sri P.N. Tewari while working as SPM Belsar on 19.10.76 accounted for the deposit dated 25.6.76 without the production of pass book and deposit slip by obtaining the amount from Sri R. D. Pandey and concealed the fraud. He also failed to report the matter to the higher authorities.

13. A deposit of Rs. 1600/- entered by Sri R. D. Pandey SPM in the Belsar SB pass book No. 866858 on 18.6.76 was not taken into account on that date. Sri Pandey was thereafter relieved from the post of SPM Belsar S.O. Pandey This amount was accounted for on 19.7.76 without production of the pass book and deposit slip by Sri Ram Sajwan Mishra SB Clerk in the list of transaction and by Sri P.N. Tewari SPM in the Long Book. Sri P.N. Tewari also signed as SPM against the entry in the register.

A deposit of Rs. 900/- entered in the pass book of above account No. by Sri Ram Sajwan Mishra SB clerk on 15.7.76 and was signed by Sri P.N. Tewari as SPM. The amount was not taken into SB ledger, L.O.T. and his accounts by the SB clerk and was not incorporated in the Long Book by Sri P.N. Tewari SPM who also signed the pass

book without entry in the ledger. It was done so because earlier deposit of Rs. 1600/- dated 18.6.76 was not accounted for to; tjen. The deposit of Rs. 900/- was subsequently accounted for on 31.7.76 by Sri Ram Sajwan SB clerk and Sri P.N.Tewari SPM without production of pass book. Thus both the officials have fully accommodated the misdeeds of Sri R.D.Pandey to conceal the frauds and settled the issue at his level in an unauthorised manner. Sri P.N.Tewari also failed to report the matter to the higher authorities.

Had the official worked according to rules and regulations as prescribed by the department, the fraud could have been detected during the month of July 1976 and the action would have been taken to get the permanent loss in the case, amounting department saved from such heavy loss.

Sl. No.	Account No.	Amount	Date of deposit in the pass book and misappropriation,
1.	868694	1000-00	23.8.75
2.	868695	1000-00	23.8.75
3.	868654	10000-00	14.11.75
4.	868145	800-00	11.12.75
5.	A- 116174	5000 -00	21.2.76
6.	Y- 3609	4000-00	6.1.76
7.	870040	2000-00	20-5-76
8.	869477	9000-00	2.2.76 and 5.2.76
9.	867391	3500-00	
			36300.00

Due to improper working of Sri P.N.Tewari as SPM Balsar SO the amount of loss remained unadjusted. Thus the Govt. was put to a loss of Rs. 36300/- in this case.

It is therefore alleged that Sri Paras Nath Tewari is responsible for the following bapses on his part.

- (1) For taking into account the above noted amount in respective accounts without the pass books and deposit slips infringing rule 424 of P&F Man. Vol. VI Part II.
- (2) Failure to observe the provisions as required under rule 404(4) of P&F Man. Vol. VI Part II.

(3) Failure to report the matter to the Supdt. of Post & offices Gonda Dist. infringing rule 171 of P&T Ban. Vol V.

(4) Failure to maintain devotion to duty infringing rule 3 of CCS(Conduct) Rules 1964.

3. The case in short is that Sri R. D. Pandey who worked as SPM Belsar SO Gonda upto June 1976 misappropriated a huge amount temporarily and a sum of Rs 36300.00 permanently from various accounts. Sri Paras Nath Tewari who worked as SPM from 1.7.1976 to 27.11.76 had helped Sri Pandey in concealing the fraud by taking into account certain transactions on certain dates as mentioned in the charge sheet without the pass book and deposit slips and also by not reporting the matter to the SPMs. Due to improper working of the official the Govt. was put to a loss of Rs. 36300.00.

4. The official was asked to submit his representation if any with him within 10 days of the receipt of the aforesaid memo. The official submitted his representation on 21.3.79 which was received in this office on 22.3.79 vide SPM Bus Station endorsement. No 238 dated 21.3.79

5. I have carefully gone through the memo of charges representation dated 21.3.79 of the official along with other connected records. The official has stated unconnected things which in no way help him to absolve of the charges levelled against him. The actions of the official during his period as SPM Belsar have helped Shri Ram Bhiraj Pandey in getting the transactions posted in the pass book and other records to conceal his fraudulent actions. The official has also failed to perform his personal duties as SPM Belsar due to which the transactions posted later on were not brought to accounts though the entries were authenticated with his initials in the pass books of some accounts. This proves that all the charges levelled against him are proved and deserves severe punishment but taking in view the hard days I take lenient view and order that a sum of Rs. 4752/- (Four thousands seven hundred fifty two only) be recovered in thirty six monthly instalments of Rs. 132.00 (One hundred thirty two rupees only).

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Supdt. of Post Offices
Gonda Division
Gonda-271001

Copy forwarded to:-

1. Sri Paras Nath Tewari clerk Bus Station P.O. Gonda for information.
2. The P.M. Gonda HO. He will please intimate the full particulars of recoveries made from the pay of the official to this office in every month.
3. The CR of the official.
4. The PP of the official.
5. The VR of the D.O. Gonda.
6. The PR of the D.O. Gonda.
7. The M.S. of the official.
8. The Director of Audit and Account B&T Lucknow for information.
- 9-10. Spare

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW

WIT PETITION NO.

OF 1985

(39)

P.N. Tiwari

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Petitioner

Versus

Union of India & Others

.. Opposite Parties

Anneexure No - 7

The Director Postal
Services U.P. East,
Lucknow.

Through Proper Channel

Appeal against SPO's Gonda Memo No P15/76-77/2 dated
31.3.79 inflicting penalty of recovery of Rs 4752/-

Sir,

Aggrieved by the harsh and unjust decision of the SPO's Gonda I approach your goodself through this appeal to guage the quantum of punishment in terms of inadequate adequate and harsh or excessive visa-viz to my defence (commensurate) to the relative chargesheet of the SPO's Gonda. My efficency is deteriorating with this heavy recovery. I feel injustice has been done to me in these hard days when I have not at all embezzled a single shell.

With all due respects the SPO's Gonda has miserably failed to discuss the points raised in my defence despite my request in my defence for my satisfaction. It is pertinent to point out that I was denied ample opportunity to defend myself by refusal of the Supdt. to supply me copies of documents relevant to this case.

The Supdt had made up this mind to recover the maximum amount from me by hook or crook and has thus achieved his end in punishing me to the maximum amount permissible under the rules without any logical discussions in the punishment memo in an arbitrary way.

The fraud was committed long before I took over as SPM Belsar. No loss or fraud occurred during my tenure. No rules or law exists which compelle to punish an innocent official who was not the least connected in the committal of fraud.

Your honour would well know that I have not committed fraud or have misappropriated Govt. money. The term

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"abettment" is also in applicable in this case. No fraud or embezzlement took place during my period. The inference of the Supdt. that the accused was helped is totally incorrect.

The misappropriated amount was recovered during my period in one way or the other. This can not be alleged as concealment of fraud. The fraud came to light during my period. I worked at Belsar S.O. for only or 5 months. The earlier detection would have served no fruitful results. After detection no amounts could be recovered from the accused. In my humble opinion this is a very far fetched conclusion of the SPO's.

I am not directly concerned in any way. It is quite unjust and harsh to punish an innocent poor employe without any concrete fault on his part. The charges are all imaginary and they do not speak in any way neither to they suggest the ways and means to check the fraud already committed. The pay in slip, the long hook and the amount of deposit all relate to the Savings Bank counter clerk in Instant Counter Scheme. No challenge from H.O. or any error extract was ever received from H.O. The supervisory staff also kept silent till this case came to light.

The copies of the chargesheet, my defence and punishment memo's are enclosed herewith for your kind perusal and judicious decision.

This is a peculiar fraud case in which the accused has been apprehended. The whole responsibility for making good Govt. loss rests on him. The section of the Post office act to recover as arrear of land revenue through DM is not infructuous. The poor employees should not be punished without any direct fault on their part.

With this prayer I request your goodself to consider my appeal and quash the order of the Supdt. Which is harsh and unjust. For this act of kindness and justice I would be ever grateful.

Yours sincerely:-

Sd/-

(Paras Nath Tewari) clerk
Bus station Gonda

X/53

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW BENCH), LUCKNOW.

(41)

WRIT PETITION NO. OF 1985

P.N. Tiwari

**

Petitioner

Versus

Union of India & Others

.. Opposite Parties

Annexure No-8

INDIAN POSTS AND TELEGRAPHS DEPARTMENT.

Office of the Director Postal Services, Lucknow Region/
Memo No. RDL/VID/L-1/AB-35/79/1 Dt. at L.W the 25-9-81

I have considered the appeal dated 25.5.79 from Shri Paras Nath Tewari Postal Asstt. Gonda Postal Division against the punishment of recovery of Rs 4752.00 issued vide S.P.Os. Gonda memo No. F.15/76-77/2 dated 31.3.79.

In my view the official should have been dealt with for major penalty and, therefore, the charge sheet under Rule 14 of CCS(CCA) Rules 1965 should have been issued. The case is, therefore, remitted back to the Disciplinary authority for denovo proceeding from the stage of issue of fresh charge sheet under Rule 14 of CCS(CCA) Rules 1965. The recoveries made from the official should be refunded without any prejudice to the decision of the fresh charge sheet to be decided later on by the Disciplinary Authority.

Sd/
(S.P.Ojha)
Director Postal Services
Lucknow Regn.

A/SU

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW BRANCH) AT LUCKNOW. (42)
WRIT PETITION NO. OF 1985

P.N. Tiwari .. Petitioner
Versus
Union of India & Others .. Opposite Parties

Annexure No-169

The enquiry Officer
ASP(Enquiry) II O/O P.M.G.U.P.
Lucknow

The D.P. Case of Shri P.N. Tewari v/A Gonda Da
under rule 14 of COS(COA) Rules 1965
Case No Inq/PI/30

Objection and reply of P.O. on the application of
defence dated 6.3.1983

The following are the submission ^{on} behalf of the
defence-

I. The P.O. has not quoted any specific rule of the
manual orders or any other ruling where the defence is
prohibited to represent his case within the frame work
of rules, rulings or orders. I dont feel that any contempt
has been committed by simple request to know the reasons
of conversion of charge sheet from rule 16 to rule 14
special reference to para 6 of Govt of India decision of
COS(COA) Rule of Swamy's publication was mentioned in
support since the basic requirements was not fulfilled
the humble request was made that the charge sheet itself
did not comply the provisions of the rules hence illegal
and not according to the rules the objection of the P.O.
therefore not in order.

II. The P.O. has misconstrued and misrepresented as the
rule quoted was seen by your goodself.

III. The rule clearly lays down that reason for cancellation
of original charge sheet should be mentioned for
issuing a fresh chargesheet. The P.O. has interpreted
wrongly to suit his ends which is to be considered under
rule 14. My case fully comes under the purview of this
rule.

IV. There is no exception to the rule whether the
authority is very higher. The COS(COA) rules are applicable
to all employees high or small. The powers of P.O.

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were never questioned. The P.O. has missued the main issue and has gone astray. The issue is important and concerned me.

V. The rule cited may be perused the objection is redundant and superfluous. There is specific mention and direction in the rules ibid for issuing a fresh charge sheet and issuing a fresh charge sheet as is evident from the order theres is no mention which may kindly be seen. The objection is untenable in this case.

Dated at Lucknow

6/10/83

Paras Nath Tewari
SPS
dt 6.10.83

पारसनाव लिवारी

— विटोलन.

बनाम

दुनियन बाक इन्डिया तका अन्य.

— विद्युतीगम.

एनेक्सर नै०- १०

केस बाक श्री बार.एन. लिवारी

लेटो बार्डर लीट लेटेड २३-८-८४

आप दिनांक २३-८-८४ को श्री पारसनाव लिवारी के लेट की बह सैलान उच्चाक्षर गोष्ठा में प्रारम्भ की श्री पारसनाव लिवारी [स्लिप्पर] और श्री बी०डी०युक्ता [धीरो] उचित है। आप वासी लिस्टिंग डाक्यूमेंट के निरीक्षण की तारीख निरिचत थी। इस बोटी लेटर उच्चाक्षर की दिनों १६/८/७६-२६-८-७६ २७/८, २८/८, ३०/८, २/९, १४/९, १५/९, २०/९, २७/९, ११/१० १६/१०, १९/१० और २०/११/७६ की निरीक्षण देतु लायेग है। धीरो ने बाई/सी ५ बोतीबो को दिनों ४-६-८३, १५-६-८३, २४-६, २५/६, ५/७, १८/७, २०/७, २५/७, ६/८, १०/८, २६/८, १४/१०, २१/११, ३०/११, २९/१२/८३ और २५/१/८४, २/२, ४/२, ९/२, १२/३, २२/३, २३/३, ३/४ ३१/५, २०/६, २६/६/८४ और २१/८/८४ उपीक्षा डाक्यर गोष्ठा के बायेंग अनुवार कान्टेंट किया बरन्तु उत्तम सादृश उन्हें अभी तक उपलब्ध नहीं हुई। ऐने भी दिनों २१/७/८४ को उत्तम डाक्यूमेंट बाई/सी इस बी बोतीबो गोष्ठा को मार्ग। रिप्रिविशन। किया बरन्तु बाई/सी इस बी बोतीबो गोष्ठा ने उत्तर दिया कि उनके बहाँ अभियोग घोरो में बन्द घड़े हैं और उन्हें देते किया था रहा है। इसके परिवित दोता है उस इन्हें देने में टाल गटोव कर रहे हैं। इस बीएत ने यह कहा कि किसी भारतीय उनके बधाव लक्षण आप नहीं जाने हैं। यिन दोनों लिस्टिंग डाक्यूमेंट को देते उस लिस्ट बाक इन्डियन डाक्यूमेंट और टिकेन्स विटमेंट के नाम देने में असमर्थ हैं। अतः आप की कार्यकाली समाप्ति की जाती है।

बाक अधीक्षक गोष्ठा को लिखा था रहा है कि उस उत्तम डाक्यूमेंट बोतो को उपलब्ध कराये। उसके पश्चात वो बासी तारीख तभाई जायेगी।

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW

WRIT PETITION NO. OF 1985

R
5X
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P.N. Tiwari

.. Petitioner

Versus

Union of India & Others

.. Opp. Parties.

Annexure No- 22 ||

To,

The D.P.S. H.Q.

Office of the P.M.G.

U.P.Circle, Lucknow.

Sir,

Sub:- Claim for promotion to LSG Cadre

Through:- Proper Channel

Most respectfully I beg to lay down the following few lines for your honours favourable and judicious consideration:-

- 1) That I entered the Deptt as Postal Clerk on 2.5.64 in Gonda postal Dm. and have thus completed 20yrs. service in the Deptt.
- 2) That as per PMG Lucknow memo no Hectt./5-85/79-80/2 ch 1st Dt.15.10.81 communicated under SPO's Gonda ^{passed in LSC Exam 3rd quater 15-2-81} memo no B-4/LSG/Ex. 21.10.81 with Roll No. 519.
3. That as per PMG Lucknow memo No STA/12-1A/LSG/1/3rd/ 79-80/7 Dt. 5.5.82 communicated under SPO's Faizabad memo No. B-17/6L Dt.10.5.82 I was posted as LSC Assistant Faizabad HO.
4. That I requested the SPO's Gonda Dm. on 22.5.82 to relieve me for my promotion post to Faizabad but I am sorry the SPO's Gonda vide his letter no B4/LSG Dt. 30.6.82 informed me that since a Deftt. case was pending against me; the case was referred to PMG for decision. On receipt of directions from Pmg action would be taken accordingly.
5. That despite various reinders and personnel re-quests with the SPO's Gonda my case of promotion is hanging fire since Oct. 81 and no reason for with holding my promotion is being intimated to me. I am thus suffering a lot mentally and economically.
6. That the mere fact of pendency of Disciplinary pro-

(46)

X/S

ceeding in my opinion can not be a valid ground for overlooking the claim of my promotion as per para 5 on page 29 of Swamya Compilation of CCS,CCA Rules corrected up to 1st March, 1983. The case law was decided V Jagadeeswara Rao. V P.M.C. Andhra Circle 1973 S.L.J. 201) The withholding of promotion during pendency of disciplinary proceeding is illegal and the petitioner is entitled for promotion vide S.L.J. 295 K Somaish V.S. Zonal Manager P.C.I.

That if there is no suspension and the officer continues to work the pendency of enquiry need not prevent promotion.

Vide SIR 302,1971 B.Srinivasa Iyer V.Mysore state 1971 lab. I.C. 937.

7. That the above decisions have been quoted to request your honour for doing justice in my case as I am suffering since Oct. 81

8. That I am extremely worried that my case was not considered by the disciplinary authority although more than 4 years have since elapsed under the rules I feel after the expiry of 2 years my case ought to have been referred to DPC for consideration of my case for an adhoc promotion. I feel it would not be against the public interest to allow an adhoc promotion.

9. That I feel your honour is well in the knowledge of all rules and rulings. The CCS,CCA Rules, their application are your daily routine. It would be no use to make reference to the rules but some times due to over work & being busy it may be possible to omit them. I therefore request that due justice may be done in my case-----

As in my appeal case Dt. 26.5.79 your memo no RDL/VIB/L-1/AB-35/79-1 Dt. 25.9.81 decided to convert the charge sheet of Recovery under Rules 16 of CCS,CCA Rules to Rule 14 of CCA,CCA Rules without giving any valid reason which is in contravention of the rules.

10. That in the end I would pray your honour to consider my case for promotion to LSG cadre as per rules and direct the concerning authorities to promote me to LSG cadre by virtue of my passing the examination and posting order issued by the P.M.G Lucknow to Faizabad HO.

My case has been delayed abnormally and I am suffering huge monetary loss in these hard times without any fault of my part.

- 3 -

11. For this justice I would be ever grateful. (W) X
59

Yours Faithfully

Sd/(Paras Nath Tiwari)
Postal Assistant
Bus-Station, Gonda.

Copy:-

1. Direct to DPO, HO. Lucknow.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD, *60*

(LUCKNOW BENCH) LUCKNOW

WRIT PETITION NO. OF 1985

W8

P.N. Tiwari

..

Petitioner

Versus

Union of India & Others

.. Opposite Parties

Annexure No- 1412

To,

The P.M.G.

U.P.Circle
Lucknow

Respected Sir,

The humble applicant submits as under :-

1. That the applicant has put in more than 21 years of satisfactory and unblemished service in the department without any complaint what so-ever from any quarter
2. That the applicant passed the departmental examination for promotion to the L.S.G. grade against 1/3rd quota of vacancies for 1979-80 held on 15.2.81 and he was ordered to be promoted by order no STA/12KA/LSG/1/3rd/79.80/7 dt 5.5.82 after having been approved by the D.P.C.
3. That the applicant was ordered to be posted as LSG Asstt at Faizabad H.O. by the SPos Faizabad vide his memo no B017/Genl dated 10.5.82 but he was not relieved to join his new assignment on the plea of pendency of departmental enquiry.
4. That the applicant submitted a representation dated 4.8.84 to the DPS HO O/O P.M.G. U.P.Circle Lucknow against with holding of his promotion arbitrarily and illegally, but no reply has been received so far despite reminders.
5. That the departmental proceedings initiated against the applicant are malicious, arbitrary and illegal. Nevertheless, they cannot justify withholding of the applicant's promotion consequent upon his passing the prescribed examination and having been approved by the D.P.C.
6. That the applicant was selected and approved against the vacancies of 1979-80 and he is entitled to the pay allowances and other benifits of the L.S.G. grade from represepective effect.

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It is, therefore, most respectfully requested that the SPos Gonda be directed to relieve the applicant immediately to join his post in L.S.G. grade in Faizabad H.O. and his salary and other benefits be allowed to him w.e.f. 10.5.82, the date of his original promotion which still stands.

Gonda

Dated 21.5.85

Yours faithfully
Sd/
Paras Nath Tiwari
PA, Bus Station P.O. Gonda

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD , X/62

(LUCKNOW BENCH) , LUCKNOW . (50)

WRIT PETITION NO.

OF 1985

P.N.Tiwari

Petitioner

Versus

Union of India & Others

.. Opposite parties.

Affidavit

I P.N.Tiwari aged about 45 years S/O Late Shri Ram
Pratap Tiwari R/O Village Kila, P.O. Lakhori via Shahwali
Railway station , Distt Faizabad , do hereby state on
oath as under : -

1. That the ~~deponent~~ ^{deponent} is the petitioner in the above noted writ petition and is fully conversant with the facts of the case deposed to in this affidavit.
2. That the contents of paras 1 to ¹³ of the writ petition are true to my knowledge and those of para 14 are believed to be true by me.
3. That the annexures 1 to ¹² to the writ petition are true copies and they have been compared with the originals.

Lucknow

31.10.1985

Deponent

Verification

I , the above named, deponent do hereby verify that the contents of paras 1 to 3 of this affidavit are true .

(51)

4/63

to my knowledge. Nothing material has been suppressed or concealed and no part of it is false. So help me God.

Lucknow

31.10.1985

Deponent

I identify the deponent who is personally known to me and who has signed before me .

(M. Dubey)

Advocate

Solemly affirmed before me this day of Oct-
ober 1985 at am/Pm by the deponent Shri P.N.Tiwari who
is identified by Shri M.Dubey Advocate , High Court of
Judicature at Allahabad , Lucknow bench , Lucknow.

I have satisfied my self that the deponent under-
stood the contents of the affidavit which have been read
over and explained by me to him.

A
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Court Allahabad Bench Lucknow,
23-A Thornhill Road, Allahabad-211-001
Gandhi Bhawan Lucknow.

No. CAT/Alld/Jud/ 30/52 Dated the 17-5

T.A.No. 1957 of 1987. (T)

P. N. Tewari

Applicant's

Versus

Union of India & others respondent's
Smt. M. Dubey, Advocate
4th Lane Nawaliya Ganeshganj
Lucknow.

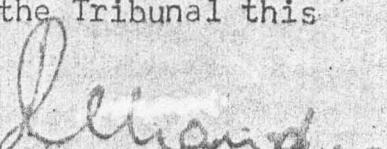
To

Whereas the marginally noted cases has been
Transferred by ~~High Court Lucknow~~ under the provision of the
Administrative Tribunal Act (No.13 of 1985) and registered
in this Tribunal as above.

Writ Petition No. 574/1987 The Tribunal has fixed date of
____ of 198____ of the 23/5/1988. The hearing of
court of High Court Lucknow the matter.

arising out of order dated
____ passed by _____
in _____ If no appearance is ~~made~~
on your behalf the matter will be heard and decided in your
absence.

Given under my hand seal of the Tribunal this
day of 16/5/1987.


DEPUTY REGISTRAR (J)

dk

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH

Gandhi Bhawan, Opp. Residency, Lucknow

No. OA/TA/

dated the 30/11/90

T.A. 1957/87(T)

Registration no. ----- of 1990

APPLICANT

P.N. TEWARI

VERSES

RESPONDENT

UNION OF INDIA & OTHERS

1. SRI B.S. SOLOMAN, ADV. HIGH COURT, LUCKNOW.
2. ~~MR.~~ M. DUBEY, ADV. HIGH COURT, LUCKNOW
3. SRI V.K. CHAUDHARY, ADV. HIGH COURT, LUCKNOW.
4. SRI K.C. SINHA, ADV. CAT ALLAHABAD.

Please take notice that the above noted file has been reconstructed and case has been fixed for hearing on ~~10/12/1990~~
10.12.1990.

Please take notice that the applicant abovenamed has presented an application, a copy whereof is enclosed herewith, which has been registered in this Tribunal, and the Tribunal has fixed ----- day of ----- 1990 for the hearing of the said application.

If no appearance is made on your behalf by yourself or your pleaser or by some on duty authorised to act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this 30 day of 11 1990.

J. H. 30/11/90
DEPUTY REGISTRAR

*Revd
30/11/90*

*Copy is ready with
myself as well as
Mr. C. S. Sinha
M. Dube
11/12/90*

A/68

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH

Gandhi Bhawan, Opp. Residency, Lucknow

No. OA/TA/

dated the 30.11.90

T.A. 1957/87(T)
Registration no. _____ of 1990

APPLICANT

P.N. TEWARI

VERSES

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1. SRI R.SOLOMAN, ADV. HIGH COURT, LUCKNOW.
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If no appearance is made on your behalf by yourself your pleaser or by some one duly authorised to act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this
30 day of 11 1990.

J. N. Tewari
DEPUTY REGISTRAR

*Recd of
Mukti for
30/11/1990*

सं. सीस्टो/एलकेओ/सीबी/जू.ए./४५/७०/८२)७

केन्द्रीय प्रशासनिक अधिकरण
हुण्डपीठ

६८

रेजीडेन्सी के सामने
गांधी भवन,
लखनऊ

दिनांक: १५.११.१९९०

सेवा में,

कोर्ट अधिकारी,
केन्द्रीय प्रशासनिक अधिकरण
हुण्डपीठ,
लखनऊ

महोदय,

न्यायिक अनुभाग की पत्रावली सं. टी.ए. १९५७/८७ :

१७१ डब्लू पी ५७४०-८५ के मूल पत्रावली के गायब होने की सूचना
श्री श्रीश कुमार, यू.डी.सी. द्वारा प्रस्तुत की गई थी। उक्त पत्रावली
पर अन्य आदेशों के साथ माननीय उपाध्यक्ष उक्त पत्रावली के पुनः संरचना
के आदेश पारित किए हैं।

अतः उक्त पत्रावली की "स" तथा "बी" फाइल इस आशय से
वापस की जा रही है कि आप कृपया इस वाद की पत्रावली को पुनः
संरचना कर माननीय न्यायालय के समक्ष सूचीबद्ध तालिका के अनुसार
सुनवाई हेतु प्रस्तुत करें।

भवदीय

उपर्युक्त वाद

पत्रावली की संरचना होना
के बारे मार्ग संकलन की
प्राप्ति हासिल करने का लाभ हो।

१६.११.९०
हिन्दी रजिस्ट्रार

२५.११.९०

१०१२

२५.११.९०

A/68

In the part, Circuit Bench, Madras
MP no 704/91 (u)
TA ^{dt} no 1957/877

Re humane application respects
Scales as modus;

(1) That the applicant's
Counsel has been ill for the
last two months and he
is unable to conduct his
case body.

(2) That his case relates to
no motion for which it is
deemed to be placed before
the D.B.

or is hence, most
desperately prayed that it
be adjourned for at least
two weeks and referred to
for adjudication.

Madras

27.4.91

M. Dubey
Adv

Counsel for applicant