

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE TA-1957/87 of 19
M.P. No. 704/91 W.P. No. 5740/85

Name of the parties P. N. Tiwari
.....Applicant.

Versus.

Union of India Andors. Respondents

Part A

Description of documents

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CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for
re-signature to the record room (Certified)

Date :

Counter signed

Section officer/Court officer.

Signature of the
Deputy Assistant

A/-

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

FORM OF INDEX

O.A./T.A./R.A./C.C.P./ No. 1957/2707
P.N. Tewari vs O.O.

PART - I

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1 to 9

10 to 11 dt. 24/8/92

Nil

27/10/92
Dy. Registrar

27/10/92
Supervising Officer
(Kuldeep)

27/10/92
Dealing Clerk

Note :- If any original document is on record - Details.

27/10/92
Dealing Clerk
(Carishk Kumar)

V.K. Mishra

6/c

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

Late Shri Ram Pratap Tiwari R/O

Village Kila, P.O. Lakhori via

Sahawal RS , Distt Faizabad . .. Petitioner .

Versus

1. Union of India thourth 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.(Enquiry) 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
4.11.85
Ordered
for up in
Jan'y 14/86
2/11/85

10/12/90

①

A/
2


Non. Mr. Justice K. Math, vs.
Non. Mr. K. Obayya, Atty.

* 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 DL(T)
on 28/1/91 for fixing
a date for final hearing
after the completion
of the record.


A. S. Sinha.


K. Obayya.
vs.

(3)

22.2.91

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
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/4

Sri M. Dubey Ed.

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 me 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.

(5)

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 order before
the Hon. Bench.

AKS
29/11/91
SO.

12.12.91

Dir to Sad counsel at
S.B.D. Check Adv.
reference made by bar DSO
on 13.12.91

13.12.91

Att. Justice V.C.S.V.

Counter may filed within
4 weeks to which the
Applicant may file response
within 2 weeks. Classif. for
sec 14. 02-12

(6)

T.A. 1950/107.T

A/S

10.2.92

No. 8.11.92 18.2.92

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

case called out. Sri M. Dey
learned counsel for the applicant
is present. No respondents on
behalf of respondents despite repeated
calls at intervals. But this
case ~~before~~ Division Bench for
orders in respect of M.P. No. 704
of 91 before Division Bench on 9.3.92

J.M.

9

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

case called out. No respondents
on behalf of either of the
parties. Lawyers are on
strike today. But this case
for orders in respect of
M.P. No. 704/91 on 28.3.92.

J.M.

9

(7)

98-3-92

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

case called out several
times at intervals. Horn responds
on behalf of applicant. The learned
counsel for respondent has sought
adjournment on the ground of
his illness. but this case for
sides ^{in respect of} M.P. No. ²⁷⁰⁴ ~~107~~/91
on 27-4-92.

J.M.

[Signature]

27-4-92

Hon. Mr S. H. Prasad J.M.

Case called out. Sr. M. Dasey
learned counsel for the applicant -
has sought adjournment on the
ground of illness and has
simultaneously prayed for
listing 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 in view of the subject matter

P.T.O.

(8)

T.A 1957/87

could—

~~16~~

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

J.M.

8-7-92

No Signing of D.M. adjro
19-8-92

19-8-92

No Signing of D.M. adjro
to 24-8-92

O.R.

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

S. F. V.

8
19/8/92

TA 1957/87(T)

A/X (9)

24/8/92

Hon-Mr. Justice U E Sweeney v.
Hon-Mr. K. O'Garra A.M.

Judgment has been delivered
in open Court

R

A-M.

W

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.C. Sen, Vice-Chairman, U.C.

The Hon'ble. Mr. K. Chagga, A.M.

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

Vice-Chairman/Member

10 24/8

CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW.

M.P. No.704/91

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

(W.P. No.5740/85)

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 ^{Proceedings} 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

lu

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A/9

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


Member (A)


Vice-Chairman.

Dated: 24th August, 1992, Lucknow.

(tgk)

A/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 24.11.91

M. Dulay
Adv
COUNSEL FOR THE APPLICANT

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(JUDICIAL DEPARTMENT) LUCKNOW

X/

MISCELLANEOUS CIVIL APPLICATION NO. 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


Counsel
For Applicant/Petitioner

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

(LUCKNOW BENCH) , LUCKNOW.

WRIT PETITION 57th OF 1985

P.N.Tiwari

..

..

Petitioner

Versus

Union of India & Others

..Opp. Parties .

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Lucknow Vakil Name			
31.10.1985			
Counsel For Petitioner			

8/3

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

(LUCKNOW BENCH) , LUCKNOW

WRIT PETITION NO. OF 1985

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 RS , Distt Faizabad . .. Petitioner .

Verous

1. Union of India thourth 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.S.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 :-

Taken up on
11.8.85
Ordered
for up in
January 1986
2/4/11/85

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. 1.3.1968.
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 $\frac{2}{3}$ promotion is by seniority and $\frac{1}{3}$ 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 Rectt/ 6-85/79-80/2ch 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-4/18G/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

A/1/1

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

ordering promotion and allotment of officials to L.S.G. Cadre against 1/3 quota, the petitioner was promoted to the L.S.G. grade and ordered to be posted as L.S.G. 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.G. Assistant Faizabad Head Office by the Opposite Party No 4, so he submitted an application 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 appointing and disciplinary authority of the petitioner is

the Superintendent of Post Offices and not the P.M.G.

6. That the petitioner had earlier been served with a charge sheet by Opposite Party No 4 under his memo no F-15/76-77/2 dated the 21.12.78, under his Rule 16 of the CCS(CCA) 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 ~~time~~^{June} 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.

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Belar. 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 remove 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 ^{he} 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} of 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 C.R. Saxena, ASP(Enquiry) II office of P.M.G. 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 ~~a true copy of the charge sheet dated 22.3.83 is~~
~~Annexure -9.~~

12. That the first date of enquiry was fixed on 6.10.83, when the petitioner challenged the validity of

A
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Charge sheet and the enquiry by his representation dated 5.10.83, 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 a long time after 23.8.84. The post of ASP(Enq) II C/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 ASPos Lucknow West sub Dn Lucknow. Shri C.R.Saxena having relinquished the post of ASP(Enq)II C/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 ASPos 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 1st 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. S.P. 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 - 14.

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 15.

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 ^m and financial loss. The petitioner be deemed to have been promoted w.e.f. 10.5.82 the date of ^{order} ~~order~~ of the promotion and entitled to all claims including emoluments and privileges of the post of L.S.G. which have been wrongly denied to him.

19. That the appellate authority did not exercise his powers in consonance with the existing rules. ~~She~~^{He} had the power to allow or reject the appeal, to ^a vary the punishment or to remand the proceedings for enquiry afresh; 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~~ ² the authorities are acting with a pre conceived notion in ³ much

X/2

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 so far. 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-authorized, illegal and void.
- (b) Because the petitioner was promoted to the post of L.S.G. cadre against reserved quota after passing the

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- 12 -

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.G. grade w.o.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. Belser 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

perverse, 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 held enquiry after having relinquished the office of ASPOs . (Enq) 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 L.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 ~~as is and 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

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 Rectt/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 Signallerr 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 SriRam Dasa Yadav Offg.
W.I.I. Bahraich.

Sd/

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

Copy to:-

- 1-5. The Official concerned.
- 6-10 P.F. 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/Acett.

17. Accountant D. O. Gonda.

18.25 Spare.

.....

78

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 TELEGRAPHIC DEPARTMENT
O/o the Sr. Supdt. of Post Offices.
Faizabad Division.

Memo No. B-17/Genl dated at Faizabad, the, 10.5.82

In pursuance of the P.M.G.U.P. Circular Lucknow Memo No. STA/12-KA/LSG/1/3rd/79-800/7 dt.5.5.82 ordering promotion and selection 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. Muzaffargarh to be officiating LSG ASSTt. Akbarpur H.O. against the vacant Post.
2. Shri P.N.Tewari P.A. Gonda Division to be officiating LSG Asstt. Faizabad H.O.
3. Shri Babadin (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.

(17)

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

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

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

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

13,14) O/C and Spars.

समय - उच्च न्यायालय झाडाबाद, सतनऊ मैन्स सतनऊ ।

वाफिका सं०-

आफ 85.

(18)

20

भारतनाथ तिवारी

— विटीसनर.

बनाम

यूनियन आफ इन्डिया तथा अन्य,

— विपक्षीग.

इनेक्शर नं०- 3
=====

श्री श्री०एन० तिवारी

। डाक सहायक ।

गोण्डा मलस्टेशन

गोण्डा

संख्या :- बी०-41 डब्लु जी

गोण्डा दि० 30/6/82

विषय :- 'सु०सु०बी० बर्ग में प्रवृत्ति हेतु झाडाबाद प्रखण्ड के लिए
भारतमुक्त किया जाना'

आपके प्रार्थनापत्र दिनांक 22.6.82 के सम्बन्ध में आपको सूचित किया जाता है कि आपके विरुद्ध जिमागीर केस में निम्न है आपका मामला डाक महाध्याय को निर्णय हेतु भेजा गया है जहाँ से निर्णय आने पर ही आपके भारतमुक्त सम्बन्धी कार्यवाही सम्भव होगी ।

ह०/- अवधित

सुपरिन्टेन्डेंट आफ पोस्ट आफिस

गोण्डा डिबोपन

गोण्डा- 271001

प्रतिलिपि :-

कर्मचारी के व्यक्तिगत बांजिका हेतु ।

ह०/-

सुपरिन्टेन्डेंट आफ पोस्ट आफिस

गोण्डा डिबोपन

गोण्डा- 271001

=====

सत्य प्रतिलिपि

=====

(19) ^A/₃₁

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

WRIT PETITION NO. OF 1985

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

Annexure - 4

INDIAN POSTS & TELEGRAPHS DEPARTMENT

OFFICE OF THE S.PDT. OF POST OFFICES GONDA DIVISION GONDA.

Memo No. P-15/76-77/2 Dated at Gonda the 21.12.78

Shri Paras Nath Tewari 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 CCS(CCA) Rule 1985. A statement of the imputations of misconduct or misbehaviour on which action is proposed to be taken as mentioned above is enclosed.

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

3. If Shri Paras Nath Tewari 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 Tewari ex parte.

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

(By order and in the name of the President)

sd/(illegible) signature

Name & Designation of the Competent authority

Copy to:-

1. Shri Paras Nath Tewari clerk Bus Station P.O. Gonda.
2. P/S of the official.
3. Vigilance Statement file.
4. Spare.

20
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STATEMENT OF IMITATIONS OF MISCONDUCT AND MISBEHAVIOUR
AGAINST SRI PARAS NATH TEWARI CLERK PWS STATION P.O. GONDA.

Sri Paras Nath Tewari worked as GPM Palsar SO Gonda on the dates 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 Palsar 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 GPM on 17.2.76 while the deposit dated 29.6.76 was accounted for by Sri P.V. 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.V. Tewari while working as GPM on 2.8.76 also failed to report the matter to the GPOs 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 GPM Palsar on 17.5.76 was entered in the pass book of Palsar SP a/c No. 76675 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 occasions Sri Ram Sajiwan SP 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 GPM. 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 GPOs by the SP 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 GPM Sri P.V. Tewari and entries thereof were signed as GPM 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 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 withdrawal 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 undated and the dates as 20.8.76 and 30.8.76 respectively were put below the initial made in taken of comparison 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.V. 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 GPOs and hushed up the fraud case.
3. Two deposits for Rs. 6000/- dated 22.4.76 and Rs. 180/- dated 19.7.73 were accepted direct by Sri R.D. Pandey GPM and entries thereof were made by him in Palsar GPM P. No 82009 but did not account for these two deposits till his relief from the post of GPM Palsar in July 1976. The depositor also deposited Rs. 250/- in his a/c on 26.8.76 and

(cont.)

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A/33

the entries of this deposit were completed by Sri Ram Sajiwan Mishra SP clerk Pelsar SO cards in the pass book. Sri Mishra failed to account for this amount as the earlier two deposits were not accounted for & thereafter obtained. Rs. 8100/- from Sri Pandey former SP and accounted for the first two deposits on 27.8.78 without production of pass book and deposit slip. Thereafter he took into account the deposit of Rs. 850/- on 30.8.78 which was accepted by him on 26.8.78. Sri Ram Sajiwan Mishra thus hushed up the fraud case and settled the matter without making a report to the SPs. Sri Parmanath Tewari while working as SP Pelsar on 27.8.78 and 30.8.78 also helped him in concealing the fraud by taking into account all the three transactions on 27.8.78 and 30.8.78 without pass book and deposit slips and by not reporting the matter to the SPs.

6. Two deposits for Rs. 270/- dated 23.2.76 and Rs. 2100/- dated 24.5.76 were accepted direct by Sri R.N. Pandey SP 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 SP Pelsar. These two deposits were taken into account by Sri Ram Sajiwan SP and Sri P.N. Tewari on 6.8.78 and 7.8.78 respectively by obtaining the amount from Sri R.N. Pandey without the pass book and deposit slips thereby concealing the fraud and not reporting the matter to the SPs.

7. Two deposits for Rs. 1700/- dated 4.11.75 and Rs. 1255/- dated 27.6.78 were accepted direct by the SP Pelsar Sri R.N. Pandey and the entries thereof were completed by him in the Pelsar SPB No. 867808 on the same dates. The deposit of Rs. 1700/- dated 4.11.75 was accounted for by Sri Pandey SP on 1.12.75 while he did not account for the second deposit dated 27.6.78 till his relief from the post of SP Pelsar. This amount was taken into account by Sri Ram Sajiwan Mishra SP clerk and Sri P.N. Tewari SP 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 unauthorized manner and also failed to report the matter to the SPs.

8. Two deposits for Rs. 2000/- dated 31.1.78 and Rs. 3000/- dated 14.2.78 were accepted by Sri R.N. Pandey SP and entries thereof were made in the pass book of Pelsar SP No. 866607 by him but did not take into account till the date of his relief from the post of SP Pelsar. The depositor also deposited Rs. 800/- in his account on 20.9.78 and the entries of this deposit were completed by Sri Ram Sajiwan clerk 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 SP. He obtained the amount from Sri Pandey and accounted for the same on 20.9.78 and 27.9.78 respectively and thereafter accounted for the deposit of Rs. 800/- on 18.10.78 accepted by Sri Ram Sajiwan Mishra on 20.9.78 thus he hushed up the fraud by settling the issue at his own level in an unauthorized manner, took into account the deposits dated 31.1.78 and 14.2.78 without the pass book and deposit slip. Sri P.N. Tewari while working as SP Pelsar SO during the month of Sept. 1978 accommodated back dated three transactions without pass book and deposit slip and concealed the fraud. Sri P.N. Tewari while working as SP Pelsar during Sept. 1978 also failed to report the matter to the SPs.

9. Sri R.N. Pandey SP accepted direct the deposits for Rs. 3000/- on 29.3.75 Rs. 1365/- on 29.6.75, 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 SP 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. 8000/- on 6.3.76 and Rs. 1000/- on 4.4.76 direct and completed entries thereof in Pelsar SP pass book No. 865111 but did not account for the amounts till his relief from the post of SP Pelsar. These amounts were

accounted for by Sri Ram Sajiwan 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 Palsar 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.

8. A deposit of Rs.1000/- was accented direct by Sri R.D. Pandey SPM Palsar on 22.6.76, entries thereof were completed in the Palsar SP pass book No 868239 by him but the amount was not accounted for by him till his relief from the post of SPM Palsar. This amount was taken into account by Sri Ram Sajiwan SP clerk and Sri P.N. Tewari SPM Palsar on 2.9.76 without the pass book and deposit slip. Sri P.N. Tewari while working as SPM Palsar 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.

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 Palsar SP pass book No 868871 but did not take the amount into account till his relief from the post of SPM Palsar SO. This amount was taken into account by Sri Ram Sajiwan Mishra SP clerk and Sri P.N. Tewari SPM Palsar on 19.7.76 without the pass book and deposit slip. Sri P.N. Tewari while working as SPM Palsar 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.

10. Sri R.D. Pandey SPM Palsar accented direct the deposit of Rs.3300/- on 21.6.76 and completed the entries thereof in Palsar SP pass book No 867265 on that date but did not take into account till his relief from the post of SPM Palsar SO. This amount was taken into account by Sri Ram Sajiwan Mishra SP clerk and Sri P.N. Tewari SPM Palsar on 20.11.76 without the pass book and deposit slip. Sri P.N. Tewari while working as SPM Palsar 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 accented direct by Sri P.N. Pandey SPM Palsar for Rs. 3000/- on 20.6.76 and Rs. 5350/- on 30.6.76 and the entries thereof were completed in the Palsar SP pass book No 86672 by him but the amounts were not accounted for till his relief from the post of SPM Palsar SO. This was detected by Sri Ram Sajiwan Mishra savings Bank clerk and Sri P.N. Tewari SPM 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 20.7.76 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 Palsar on the above dates also failed to report the matter to the higher authorities.

(continued)

23/5

12. Two deposits were accounted 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 Pelsar 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 Pelsar 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 withdrawals dated 20.10.76. Thus Sri P.N. Tewari while working as SPM Pelsar 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 Pelsar 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 Pelsar SO. This amount was accounted for on 18.7.76 without production of the pass book and deposit slip by Sri Ram Sajiwan 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 Sajiwan 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 Sajiwan 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. 56500/- 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.
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.	116174	5000.00	21.2.76
6.	3609	4000.00	8.1.76
7.	870040	2000.00	20.5.76
8.	869477	8000.00	2.2.76 and 5.2.76
9.	867891	8150.00	-
		350.00	
		<u>56500.00</u>	

5.

Due to improper working of Sri P.N. Tewari as S.P.M. Palsar 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 Math Tewari is responsible for the flowing lapses 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&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 Supt. 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.

Supt. of Post Offices,
Gonda Division
Gonda-271001

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

(LUCKNOW BENCH) LUCKNOW. (25) X/X

WRIT PETITION NO. OF 1985

P.N. Tiwari

.. Petitioner

Versus

Union of India & Others

.. Opposite Parties

Annexure No - 5

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 ~~the~~ the stt. of Shri Ram Sajiwan 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 Sajiwan SSGC & 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/O 866611	1100/-
	1450/-
86675	1500/-
82009	6000/-

	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 48898/- was recovered or made good else the loss would have amounted to Rs.48898/, 36300/- and 85198/- I do not claim reward. 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 extend all help and cooperation 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 commission of fraud and misappropriation 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.

The Fraud and misappropriation was long before I took over as SPM Belsar 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 far 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 Belsar 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 Belsar SO 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 CO to whom the duties of S.Bank were delegated. The counter transaction were performed by the SB CO 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 Dhiraj Pande managed to make payments to the depositor and made good the Govt loss. Since the amount of loss was made good to the satisfaction of the depositor without any complaint 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

judgment 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 tune 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 15.7.76 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 make 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 parwise 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
(LUCKNOW BENCH) LUCKNOW.

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 CCS(CCA) Rules 1965 on the basis of allegations reproduced below:-

Sri 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 ~~and after realising~~ 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

(31) 43

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 undated and the dates as 28.8.76 and 30.8.76 respectively were put below the initial made in token of comparison 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 Ganda in the pass

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 Sajiwan Mishra thus hushed up the fraud case and settled the matter without making a report to the SPOs. Shri Paras Nath Tewari while working as SPM Belser 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 SPOs.

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 Belser and the entries thereof were made by him in Belser SB P.B. No. 867649 but he did not account for till his relief from the post of SPM Belser. These two deposits were taken into account by Sri Ram Sajiwan SBO 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 SPOs.

5. Two deposits for Rs. 1700/- dated 4.11.75 and Rs. 1255/- dated 27.6.76 were accepted direct by the SPM Belser Sri R.D. Pandey and the entries thereof were completed by him in the Belser 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 Belser. This amount was taken into account by Sri Ram Sajiwan 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 SPOs.

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 Belser SB a/c No. 866607 by him but did not take into account till the date of his relief from the post of SPM Belser. 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 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. 800/- on 16.10.76 accepted by Sri Ram Sajiwan 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 Belsar 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 Belsar 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 those dates in Belsar 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 28.10.75 respectively. He also accepted deposits for Rs. 3000/- thereof in Belsar SB pass book No. 865111 but did not account for the amounts till his relief from the post of SPM Belsar. These amounts were accounted for by Sri Ram Sajiwan 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 amount from Sri Pandey. Sri P.N. Tewari while working as SPM Belsar 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 Belsar on 22.6.76, entries thereof were completed in the Belsar SB pass book No. 868239 by him but the amount was not accounted for by him till his relief from the post of SPM Belsar. This amount was taken into account by Sri Ram Sajiwan SB clerk and Sri P.N. Tewari SPM Belsar on 2.9.76 without the pass book and deposit slip. P.N. Tewari while working as SPM Belsar on 2.9.76 thus hushed up the fraud and settled the issue

privately in an unauthorized 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 Belsar SB pass book No 868871 but did not take the amount into account till his relief from the post of SPM Belsar SO. This amount was taken into account by Sri Ram Sajiwan 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 authorized 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 SO. This amount was taken into account by Sri Ram Sajiwan 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 unauthorized 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 Belsar SB pass book No. 86672 by him but the amounts were not accounted for till his relief from the post of SPM Belsar SO. This was detected by Sri Ram Sajiwan 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

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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 deposits 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 Sajiwan 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 Sajiwan 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; ; tjem. The deposit of Rs. 200/- was subsequently accounted for on 31.7.76 by Sri Ram Sajiwan 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.	863145	800-00	11.12.75
5.	A- 116174	5000 -00	21.2.76
6.	Y- 3609	4000-00	6.1.76
7.	870040	2500-00	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 Balsear 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 payees on his part.

- (1) For taking into account the above noted amount in respective accounts without the pass books and deposits always 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 En. infringing rule 171 of P&T Man. Vol V.

(4) Failure to maintain devotion to duty infringing rule 3 of COS(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 SPOs. 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 Dhiraj 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. 4750/- (Four thousands seven hundred fifty two only) be recovered in thirty six monthly instalments of Rs. 132.00 (One hundred thirty two rupees only).

Supt. 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 MO. 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 PF 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 Pat Lucknow for information.

9-10. Spare

P.N. Tiwari

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Petitioner

Versus

Union of India & Others

.. Opposite Parties

Annexure 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 gauge 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 efficiency 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 compels 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

"abatement" is also in applicable in this case. No fraud or 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 Belstar S.O. for only 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 employees 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 book 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 an 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/57

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

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/AR-35/79/1 Dt. at LW the 25-9-81

I have considered the appeal dated 25.5.79 from Shri Paras Nath Tewari Postal Asstt. Conda Postal Division against the punishment of recovery of Rs 4752.00 issued vide S.P.Os. Conda memo No. P.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(COA) 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(COA) 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.

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

(LUCKNOW BRANCH) ; LUCKNOW. (42)

WRIT PETITION NO. OF 1985

P.N. Tiwari

.. Petitioner

Versus

Union of India & Others

.. Opposite Parties

Annexure No-189

The enquiry Officer

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

The D.P. Case of Shri P.N. Tewari P/A Gonda Dn
under rule 14 of CCS(CCA) Rules 1965
Case No Inq/FN/30

Objection and reply of P.O. on the application of
defence dated 6.5.1983

The following are the submission ^{on} of 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 CCS(CCA) Rule of Swamys 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 the rules. 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 CCS(CCA) Rules are applicable to all employees high or small. The powers of E.O.

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

V. The rule cited may be perceived 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 there 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

खमस - उच्च म्मापातय क्काहाबाव, लखनऊ येन्व लखनऊ ।

बाधिका सं०-

आक 85.

(44)

बारसनाथ सिबारी

— विटीसनर.

बनाम

युनिमन आक इन्डिया तथा अन्य.

— विपक्षीय.

एनेक्चर नं०- 10

=====

केस आक श्री आर.एन. सिबारी

केसो आर्डर सीट डेटेड 23-8-84

आज दिनांक 23-8-84 को श्री बारसनाथ सिबारी के केस की यह सेशन उबडाकवर गोड्डा में प्रारम्भ की श्री बारसनाथ सिबारी [एलबीएस] और श्री बी०डी०मुक्ता [बीडी] उपस्थित हैं । आज बाकी सिस्टिम डायुमेन्ट के निरीक्षण की तारीख निश्चित की । एल ओ टी बेलसर उबडाकवर की दि० 16/8/76-26-8-76 27/8, 28/8, 30/8, 2/9, 14/9, 15/9, 20/9, 27/9, 11/10 16/10, 19/10 और 20/11/76 को निरीक्षण हेतु अवसर है । बीडी ने आई/सी 5 बीसीओ को दि० 4-6-83, 15-6-83, 24-6, 25/6, 5/7, 18/7, 20/7, 25/7, 6/8, 10/8, 26/8, 14/10, 21/11, 30/11, 29/12/83 और 25/1/84, 2/2, 4/2, 9/2, 12/3, 22/3, 23/3, 3/4 31/5, 20/6, 26/6/84 और 21/8/84 अधीक्षक डाकवर गोड्डा के आदेश अनुसार कान्टेस्ट किया परन्तु अबत लाइव उन्हें अभी तक उपलब्ध नहीं हुई । मैंने भी दि० 21/7/84 को उक्त डायुमेन्ट आई/सी एस बी सीओ गोड्डा को मांग । रिजिस्ट्रेशन । किया परन्तु आई/सी एस बी सीओ गोड्डा ने उत्तर दिया कि उनके यहाँ अभिलेख धोरों में बन्द गड़े है और उन्हें ट्रेस किया जा रहा है । इसके पोरलपित होता है वह उन्हें देने में टाल मटोल कर रहे हैं । एस बीएस ने यह कहा कि किओ प्रारम्भिक उनके बचाव लहायक आज नहीं आये हैं । बिना शेष सिस्टिम डायुमेन्ट को देखे वह सिस्ट आक इंडियन डायुमेन्ट और ठिकेन्स विटनेसेज के नाम देने में असमर्थ हैं । अतः आज की कार्यवाही समाप्त की जाती है ।

डाक अधीक्षक गोड्डा को लिखा जा रहा है कि वह उक्त डायुमेन्ट बीडी को उपलब्ध कराये । इसके पश्चात ही अगली तारीख समर्पित जायेगी ।

"सत्यमेव जयते"

ह०/ अर्वाठल
आई/सी 23-8-84

(LUCKNOW BENCH) LUCKNOW

WRIT PETITION NO. OF 1985

(45)

P.N.Tiwari

.. Petitioner

Versus

Union of India & Others

..Opp. Parties.

Annexure No- 12 ||

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 Dn. and have thus completed 20yrs. service in the Deptt.
- 2) That as per PMS Lucknow memo no Hcett./5-85/79-80/2 ch 11 Dt.15.10.81 communicated under SPO's Gonda memo no B-4/LSG/Ex.21.10.81, with Roll No. 519.
 passed with LSG Exam 15.2.81
3. That as per PMS Lucknow memo No STA/12-XA/LSG/1/3rd/79-80/7 Dt. 5.5.82 communicated under SPO's Faizabad memo No.B-17/CL Dt.10.5.82 I was posted as LSG Assistant Faizabad HQ.
4. That I requested the SPO's Gonda Dn. on 22.5.82 to releieve 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 Deptt. case was pending against me; the case was refered to PMS for decision. On receipt of directions from Pms action would be taken accordingly.
5. That dispite various reinders and persunel 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 econemically.
6. That the mere fact of pendency of Disciplinary pro-

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ceeding in my opinion can not be a valid ground for over looking the claim of my promotion as per para 5 on page 29 of Swamys Compilation of CCS,CCA Rules corrected up to 1st March, 1983. The case law was decided V Jagadee - wara Rao. V P.M.C. Andhra Circle 1973 S.L.J.201) The With holding 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 F.C.I.

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

Vide AIR 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/VID/M-1/AR-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 PMG Lucknow to Faizabad HQ.

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

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11. For this justice I would be ever grateful.

Yours Faithfully

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

Copy:-

1. Direct to DPS, HO. Lucknow.

(LUCKNOW BENCH) LUCKNOW

WRIT PETITION NO. OF 1985

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P.N. Tiwari

.. Petitioner

Versus

Union of India & Others

.. Opposite Parties

Annexure No- 1812

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/12AA/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 withholding 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 benefits of the L.S.G. grade from retrospective 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 ,

(LUCKNOW BENCH) , LUCKNOW .

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. Lakheri via Sahawal Railway station , Distt Faizabad , do hereby state on oath as under ; -

1. That the ^{deponent}~~petitioner~~ 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 ²³ of the writ petition are true to my knowledge and those of para ²⁴ 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

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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

Solemnly affirmed before me this day of Oct-
ober 1985 at am/pm by the deponent Shri P.M. 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.

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

Chandhi Bhawan Lucknow.

No. CAT/Alld/Jud/30152 Dated the 27/5

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

P. N. Tewari Applicant's

Versus

Union of India & others Respondent's

To

Shri M. Dubey, Advocate
4th Lane Nawaiya Bameshganvi
Lucknow.

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. 574/1985 The Tribunal has fixed date of
_____ of 1987. of the 23/5/1988. The hearing of
court of High Court Lucknow the matter.

arising out of order dated _____ If no appearance is ~~made~~
_____ passed by _____ made on your behalf by your some
in _____ one duly authorised to Act and pled
on your behalf the matter will be heard and decided in your
absence.

Given under my hand seal of the Tribunal this

_____ day of 16/5/1988.

Devi Prasad
DEPUTY REGISTRAR (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH

Gandhi Bhawan, Opp. Residency, Lucknow

No.OA/TA/

dated the 20.11.90

T.A.1957/87(T)

Registration no.-----of 1990

c/c

APPLICANT

P.N.TEWARI

VERSES

RESPONDENT

UNION OF INDIA & OTHERS

1. SRI B.SOLOMAN , ADV. HIGH COURT ,LUCKNOW.
2. ^{MT} 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 ~~XXXXXX~~ 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 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
20 day of 11 1990.

20/11/90
DEPUTY REGISTRAR

*Recd
20/11/90*

*Copies sent to
myself as well as
Mr. Sinha B. Solomon Adv.
M. Dubey
4/12/90*

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

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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 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.

[Signature]
DEPUTY REGISTRAR

Received
Chak-C. Sinha
31/12/90

केन्द्रीय प्रशासनिक अधिकरण
खण्डपोठ

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रेजीडेन्सी के सामने
गांधी भवन,
लखनऊ

दिनांक: 15.11.1990

सेवा में,

कोर्ट अधिकारी,
केन्द्रीय प्रशासनिक अधिकरण
खण्डपोठ,
लखनऊ

महोदय,

न्यायिक अनुभाग की पत्रावली सं. टी.ए. 1957/87 :

§7§ डब्लू पी 5740-85 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 "ए" 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

उपनिवेशक महोदय

पत्रावली की पुनः संरचना की जा रही है।
कोर्ट अधिकारी के कार्यालय में।
दिनांक 16.11.90

§ गौर चन्द्र § 16.11.90
डिप्टी रजिस्ट्रार

1002

29.11.90

In the P.T., Circuit Bench, ¹⁰⁰ ~~100~~

MP no 704/91 (L)

TA ²¹ no 1957/87T

E.F. 27.4.91

The humble applicant respectfully
submits as under:

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

(2) That the case requires to
be adjourned for which it is
required to be placed before
the D.B.

It is therefore, most
respectfully prayed that the
case be adjourned for at least
two weeks and moved to D.B.
for adjudication.

Respectfully
27.4.91

M. Dubey
Adv
Counsel for Applicant