

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 32 of 1988

APPLICANT (s) Ram Sivomani

RESPONDENT(s) Union of India

Particulars to be examined

Endorsement as to result of Examination

1. Is the appeal competent?
2. (a) Is the application in the prescribed form?
(b) Is the application in paper book form?
(c) Have six complete sets of the application been filed?
3. (a) Is the appeal in time?
(b) If not, by how many days it is beyond time?
(c) Has sufficient case for not making the application in time, been filed?
4. Has the document of authorisation/Vakalat-nama been filed?
5. Is the application accompanied by B.D./Postal-Order for Rs. 50/-
6. Has the certified copy/copies of the order (s) against which the application is made been filed?
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed?
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly?

- yes -

- yes -

- yes -

- 11 sets filed.

- yes -

N.A.

N.A.

- yes -

CC 089040 P 932090 / 7 Ps.
4 D 337460 B 073968 / 50/2
38 48 25-5-88.

- yes -

- yes -

- no -

A/C

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW

O.A.No.32 of 1988.

Ram ShiromaniApplicant

Versus

Union of India & others.....Respondents.

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

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

(By Hon'ble Mr.Justice U.C.Srivastava,V.C.)

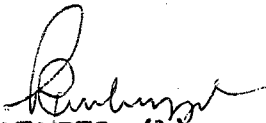
The applicant was working as Sorting Assistant,RMS 'SH' Saharanpur.The Superintendent, RMS 'SH' Division Saharanpur passed an order dated 7.1.87 inflicting a penalty of recovery of Rs.3300/- from the salary of the applicant. The applicant filed an appeal against the same which was dismissed by the Director Postal Services, Dehradun vide order dated 28.3.88. Thereafter, he approached this tribunal.

2. On 2.2.85, the Sub-Post Master, Nehtaur made a complaint that the Mail bag of RMS/I, Najibabad was found having a cut of about 4 inches at its bottom and four insured letters were found missing from it. Consequently, a charge sheet was served on the applicant for violating of Rule 3(i),(ii) and (iii) of CCS (Conduct) Rules. He was required to submit his representation within ten days from the receipt of the notice dated 5.12.85. An Enquiry Officer was appointed and the enquiry proceeded. According to the applicant, he demanded some relevant documents for making a correct defence statement but only few of them were shown, the details of which have not been given by the applicant. He was also shown the bag which was found cut by four inches at its bottom in the presence of two witnesses. The applicant submitted his representation denying the charges against him. It was thereafter that an order for recovery of Rs.3300/- was passed by the Disciplinary Authority against which he filed an appeal which was also dismissed and the order, passed by the Disciplinary

✓


Authority, has been challenged on the ground that the findings which have been so given, were not to the tune of evidence recorded and the evidence recorded does not prove the applicant's responsibility for the same and if anything was done in the transit, the applicant was not responsible for the same. According to the respondents, the bag in question was not opened at Dhampur and the applicant had made confusing averments and actually the transit bag which was containing the said bag, was opened at Dhampur as usual. The bag was further closed in a transit bag in sound condition in another transit bag for Nehtaur Post Office. The respondents have denied that all the documents were not shown to the applicant. As a matter of fact, according to the respondents, all the documents, desired by the applicant, were shown to him by Incharge RMS Najibabad and the chord was also examined by the Disciplinary Authority before deciding the case considering the representation of the applicant and it was found that the length of the chord preserved by the Sub-Post Master, Nehtaru as exhibits was equal in length with the length of the chord tested on the day of decision. It may be that it is because of act/^{of} some negligence and lack of supervision on the part of the applicant, that is why the applicant has been awarded ~~in~~ the minor penalty. Accordingly, we do not find any good ground to interfere with the minor penalty and as such the application deserves to be dismissed and it is dismissed. It, being a minor penalty and as the applicant has not directly been involved in what had happened, there appears no reason as to why the promotion from due date will not be granted as the minor punishment is not to stand in the way of promotion of anybody. But for the above observation, the application stands dismissed.

No order as to costs.


MEMBER (A)

DATED: NOVEMBER 21, 1992.

(ug)


VICE CHAIRMAN.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

O.A./T.A. No. 32 1988 (L)

Ram Srinivas

Applicant(s)

Versus

J.O.L.

Respondent(s)

Sr. No.	Date	Orders
4	26.X.88	<p>Applicant's Counsel Dr. Raksh Kumar Srinastava & Associates Reply not filed by 22-11-88 for reply</p> <p><u>Dehian</u> 26/X/88</p>
	22.11.88	<p><u>D.B.</u> Sr. V.K. Choudhary Counsel for Respondents is present. As prayed by Counsel for respondents, Reply can be filed by 23.1.89.</p> <p><u>Dehian</u> DR</p>
	23.1.89	<p><u>D.B.</u> No reply filed. The case is fixed for trial hearing on 23.2.89. In the meantime reply may be filed.</p> <p><u>Dehian</u> DR</p>

16/2/89

DR

No reply filed

DR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(LUCKNOW BENCH)
LUCKNOW.

D.A. NO 32/88 199 (L)

~~I.A. NO~~

Date of Decision 19-11-92

Ram Sharanani

Petitioner.

Shri Rakesh Kumar

Advocate for the
Petitioner(s)

V E R S U S

Union of India & others

Respondent.

Shri Ashok Mohiley

Advocate for the
Respondents

C O R A M

The Hon'ble Mr. Justice U.C. Sinastana, J.C.

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

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

✓
VICE-CHAIRMAN/MEMBER

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 32/88(L) of 198

APPELLANT
APPLICANT

Ram Shiromani

VERSUS

DEFENDANT
RESPONDENT

Union of India & ors

Sl No of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
11/5/89	<p><u>Hon' Mr. K.J. Raman, A.M.</u></p> <p>Shri A. Mohilkey learned counsel for the respondents is present. The briefholder of Mr. P.K. Srivastava, learned counsel for the applicant received copy of the reply today and requests for and is allowed 2 weeks time to file rejoinder. The case be listed for final hearing on <u>25-5-89</u>.</p> <p style="text-align: right;"><i>[Signature]</i> A.M.</p> <p>(sns)</p> <p><i>2-5/5</i></p> <p><i>NO SITTING Adjourned to 4/8/89 for Hearing.</i></p>	<p><i>OR In compliance Court's order dt 11-5-89 No rejoinder has been filed so far by the learned counsel for the applicant. Submitted further</i></p> <p style="text-align: right;"><i>24/5</i></p>
4/10/89	<p style="text-align: right;"><i>Boc.</i></p> <p><u>Hon Justice K. Nath, J.C.</u></p> <p>The case is wrongly listed before a Single Member dist before a Bench on 19-9-89.</p> <p style="text-align: right;"><i>[Signature]</i> J.C.</p> <p><i>19-9-89</i></p>	<p><i>OR In compliance of Court's order dt 11-5-89, no rejoinder filed submitted for hearing</i></p> <p style="text-align: right;"><i>3/10</i></p> <p><i>OR No rejoinder filed Case is submitted for hearing</i></p> <p style="text-align: right;"><i>10/10</i></p>

A/6

12.3.90

No sitting Adj to 20.3.91.

R

20.3.91

No sitting Adj to 22.5.91
J23.3.91No sitting Adj to 2.8.91
J2.8.91

No sitting Adj to 21.10.91

2

OR
NO RA Hel
L
W/A21.10.91

D.R.

Counsel for the
applicant is present.He desires to file
Rejoinder by 29/11/91.J
7/1129.11.91

D.R.

Both the parties are
present. Applicant
to file Rejoinder by
31/1/92.ARON
29/11/91
SO.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(LUCKNOW BENCH)
LUCKNOW.

O.A. NO 32/88 199 (L)

~~I.A. NO~~

Date of Decision 19-11-92

Ram Sharanani

Petitioner.

Shri Rakesh Kumar

Advocate for the
Petitioner(s)

V E R S U S

Uma Jindal & others

Respondent.

Shri Ashok Mohiley

Advocate for the
Respondents

C O R A M

The Hon'ble Mr. Justice U.C. Saxena, J.C.

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

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

✓
VICE-CHAIRMAN/MEMBER

28.9.92

No sitting of D.M. adjourned
13.11.92

13.11.92

No sitting of D.M. adjourned
18.11.92

NO RA filed
by applicant.
S.F.O.

18.11.92

Case and ready copy
on 19.11.92

Bae

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16/11/9219-11-92

Hon. Mr. Justice H.C. Sinasteng, V.C.
Hon. Mr. K. O'Dayya, A.M.

Heard the reserved counsel
for the parties. Judgment
dictated separately.

A.M.

V.C.

filed today
Noted 27-5-88
26-5-88

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD CIRCUIT BENCH : LUCKNOW.

BETWEEN

Ram Shiromani. Applicant.

AND

Union of India and others Respondents.

I N D E X .

Sl. No.	Description of Documents relied upon.	Page No.
1.	Application	1 - 19
2.	<u>Annexure No. A-1</u> Notice calling the petitioner to submit his representation alongwith the statement of imputation of charge.	20 - 21
3.	<u>Annexure No. A-2</u> Statement of Khushal Singh, R.S. Raza Raza, R.M.S. Najibabad.	- 22 -
4.	<u>Annexure No. A-3</u> statement of Khushal Muni, Mail Man, R.M.S. Najibabad.	- 23 -
5.	<u>Annexure No. A-4</u> Representation dt. 11.8.1986	24-30
6.	<u>Annexure No. A-5</u> Imp. order of punishment	31-35
7.	<u>Annexure No. A-6</u> Appeal dated 12.2.1987	36-43
8.	<u>Annexure No. A-7</u> Imp. appellate order dt. 28.3.1988	44-46
9.	<u>V a k a l a t n a m a</u>	- 47 -

DATED: LUCKNOW
26-5-1988

Ram Shiromani
(SIGNATURE OF APPLICANT)

FOR USE IN TRIBUNAL'S OFFICE

1. Date of filing _____

2. Registration No. _____

signature
for Registrar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD: CIRCUIT BENCH
LUCKNOW.

APPLICATION NO. 32 OF 1988 (4)

BETWEEN

RAM SHIROMANI APPLICANT.

A N D

UNION OF INDIA AND OTHERS RESPONDENTS.

1. DETAILS OF APPLICATION :

(1). Particulars of the Applicant:

- (i). Name of the Applicant : RAM SHIROMANI
- (ii). Name of father/husband: Sri Mangaroo Ram
- (iii). Age of the Applicant : About 35 years.
- (iv). Designation and particulars of office (name and station) in which employed or was employed before ceasing to be in service. : Postal Assistant:
Returned Letter
Office, Lalbagh
(Bhopal House),
LUCKNOW.
- (v). Office Address : Ram Shiromani,
Postal Assistant,
Returned Letter
Office (Lalbagh
(Bhopal House);
LUCKNOW.
- (vi). Address of Service: As above in column (V)
of Notice

Ram Shiromani

2. Particulars of respondents:-

I-(i). Name of respondent:	The Union of India, through the Secretary Telecommunication, New Delhi.
(ii). Name of father/ husband	Not applicable
(iii). Age of respondent	-- do --
(iv) ix Designation and particulars of office (name and station)	-- do --
(v). Office Address	The Union of India through Secretary, Telecommunication Department, New Delhi.
(vi). Address of service of notice.	-- do --
II-(i) Name of respondent	The Superintendent of Railway Mail Service 'SH' Division, Saharanpur -ur
(ii). Name of father/ husband.	Not applicable
(iii) Age of respondent	Not applicable
(iv) Designation and Parti- culars of office (name & station) in which employed.	The Superintendent of Railway Mail Service, 'SH' Division, Saharanpur.
(v). Office Address	As Above in column (iv)
(vi). Address of service of Notice	As above in column (iv)

Sundaram

(3).

- III-(i). Name of respondent The Director of Postal Services, Dehradun Region, Dehradun.
- (ii). Name of father/
Husband Not applicable
- (iii). Age of retirement Not applicable
- (iv). Designation and Particulars of Office (Name & Station) in which employed. The Director of Postal Services, Dehradun Region, Dehradun
- (v). Office Address As in column (iv) above
- (vi). Address of Service of notice As in column (iv) above
- IV-(i). Name of respondent Mohan Beer Singh
- (ii). Name of father/
husband Not known
- (iii). Age of respondent : Not applicable
- (iv). Designation and Particulars of office (name & station) in which employed. Retired Head Sorter, R.M.S. Najibabad, 'SH' Division, Saharanpur
- (vi). Office Address Not applicable
- (vii). Address of service of Notice. Mission Compound, Najibabad, District Bijnore (U.P.)
- V- (i). Name of Respondent Hem Singh,
- (ii). Name of father/
~~husband~~ Not known
- (iii). Age of respondent Not applicable
- (iv). Designation and Particulars of office (name & Station) where employed Sorting Assistant; Railway Mail Service, 'SH' Division, Moradabad (U.P.)

Can't find answer?

(v). Office address	As in column (iv) above
(vi). Address of Service of Notice	As in column (iv) above
VI- (i). Name of Respondent	Sub Post Master, Nehtaur District- Bijnore (U.P.)
(ii). Name of father/ husband	Not known
(iii). Age of Respondent	Not applicable
(iv). Designation and Particulars of office (name & station) in which employed.	Sub Post Master, Nehtaur, District Bijnore (U.P.)
(v). Office Address	As in column (IV) above
(vi). Address of Service of Notice	C/O Post Master, Dhampur; District Bijnore (U.P.)
VII- (i). Name of Respondent	The Sorting Assistant Head Post Office Dhampur, Distt- Bijnore (U.P.)
(ii). Name of father/ Husband	Not known
(iii). Age of respondent	Not known
(iv). Designation and particulars of office (name and station) in which employed.	Sorting Assistant, Head Post Office Dhampur Distt. Bijonre. (U.P.)
(v). Office Address	As in column (iv) above.
(vi). Address of Service of Notice	C/O Post Master, Dhampur, District Bijnore (U.P.)
VIII. (i). Name of respondent	Ram Murti Sharma,
(ii). Name of father/ husband	Not known

See previous

.5.

- (iii). Age of respondent Not applicable
- (iv). Designation and particulars of office (name-Opener/closer) Railway and station) in which-Mail Service, Najibabad employed. -District Bijnore (U.P.)
- (v). Office Address As in column (iv) above
- (vi). Address of service of Notice. C/O Supereintendent, Railway Mail Service, 'SH' Division, Saharanpur (U.P.)

3. Particulars of the order against which the application is made: This application is made against the Order dated 7.1.87 passed by Supereintendent, R.M.S. 'SH' Division Saharanpur thereby inflicting penalty of recovery of Rupees 3300/- from the salary of the applicant: and the order dated 28.3.88 passed by Director Postal Service, Dehradun Region Dehradun thereby dismissing the appeal of the applicant.

4. Jurisdiction of the Tribunal- The applicant declares that the subject matter of the orders against which he wants redressal is within the jurisdiction of this Tribunal

mail bag prescribed therefor.

(iv). That thereafter the applicant handed over the charge of the mail bags to the relieving official ~~XXXXXX XXXXXXXXX~~ in (respondent No 5) duty sorter/i.e. at 16.40 hours on 1.2.1985 as the applicant's duty came to an end on that day.

(v). That the mail-bag handed over to the reliever of the day on 1.2.1985 at 16.40 hours was intact and of sound canvas and was not torn or cut at any place.

(vi). That after handing over the charge of the day on 1.2.1985 the mail-bags which were handed over to the reliever were sent to their destinations by the reliever i.e. R.M.S/2 Najibabad,

(vii). That pertinent to mention here is that the mail-bag which was sent to Sub Post Office Nenta -ur via Dhampur Post Office in District Bijnore (U.P.) had to pass through the hands of different persons e.g. first of all the mail-bag in question went in the hands of relieving official i.e. R.M.S/2 Najibabad who in

Amal Kumar

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turn after keeping it ~~with~~ in his ~~charge~~ charge for few hours despatched the mail-bag to L.W. 25 in Section and L.W. 25 in section carried it to Dhampur where he handed it over to the Mail Peon of Post Office Dhampur at about 4.00 hours and the Mail Peon handed it over to the Post Master Dhampur who opened the Mail-Bag and mails meant for Nehtaur Sub Post Office ~~were~~ ~~received~~ received from various places were collected and put into one Transit Bag and despatched the same to the ^{Sub} Post Office Nehtaur on 2.2.1985 ~~the~~ destination of the mail-bag in question.

(viii). That on 2.2.1985 the Sub Post Master, Nehtaur made a complaint to various authorities that the Mail-Bag of RMS/1 Najibabad i.e. the mail bag which was properly closed and sealed under the direct supervision of LSG Head Sorter at Najibabad by the applicant was found having a cut of about 4 inches at its bottom and four (4) Insured Letters were missing from it.

(ix). That it also pertinent to mention here that the Sub Post Master Nehtaur (the complainant in instant case)

Sub Post Master

and the Post Master Dhampur had~~x~~ for many times been found responsible for the cases of loss and default which had occurred in the past in dealing with and handling of mails and the public money.

(x). That on the above mentioned complaint a Disciplinary Proceedings were set against the petitioner and the petitioner was served with statement of Imputations or Misbehaviour for the proposed violation of Rule 3 (1) (ii) and (iii) of CCS (Conduct) Rules, 1964. alongwith a Notice dated 5.12.1985 indicating therein that the applicant should submit his representation in his defence within 10 days from the receipt of the Notice. Photostat copy of the said Notice and the statment of imputations of misconduct or misbehaviour is being filed. As Annexure No. A- 1 to the application.

(xi). That during enquiry the applicant demanded some relevant documents which were necessary for making a correct defence-statement out of which ^{only} a few~~x~~ were shown to the applicant.

Santhosh Kumar

.10.

(xii). That the applicant was also shown the bag which was found cut by 4 inches at its bottom in the presence of the ~~Inspector~~ ~~two~~ witnesses by the Inspector for having been preserved by the complaining Sub Post Master of Nehtaur. The chord (Sutly) which was said to had been tied around the neck of the alleged bag by the ^{applicant} ~~petitioner~~ was also shown to the ~~applicant~~ ^{him}.

(xiii). That the applicant and the persons i.e. the ^{RS} ~~Head Sorter~~ in whose presence the bag was sealed namely Khushal Singh and another Mail Man namely Khushal Mani and even the Inspector, IRM tried their best to fasten the chord (Sutly) around the preserved mail bag but every time the string (Sutly) fell too short for the purposes of fastening of the alleged mail-bag said to have been defaulted by the petitioner. The two persons namely LSG Head Sorter Sri Khushal Singh the Mail Man Khushal Mani, Mail Peon have given their statement in writing that the string (Sutly) could not be tied around the said bag which proved beyond doubt that the bag was not the original one i.e one which was sealed by the applicant and sent to Nehtaur from where it was reported that the

Sumit Sharma

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instalments of Rs. 100/- each towards the compensation of loss met by the Department. A true copy of the aforesaid order penalising the applicant is being filed herewith as Annexure No. A-5 to the application.

(xvi). That the applicant vide his appeal dated ~~12.1.1987~~ 12.2.1987 made a departmental appeal through Proper Channel to the Director Postal ~~Division~~ Services, Dehradun making detailed statements of facts and putting forth his defence thereby praying therein to exonerate of the charge levelled against the applicant and to set aside the order of recovery passed by Superintendent, R.M.S. 'SH' Division Saharanpur dated 7.1.1987. A true Copy of the appeal dated 12.2.1987 is being filed herewith as Annexure No. A- 6 to the application.

(xvii). That by an order dated 28.3.1988 the Director, Postal Services Dehradun out of his own surmises and conjectures had rejected the appeal of the applicant and upheld the punishment awarded by the Superintendent R.M.S. 'SH' Division, Saharanpur . A true copy of the order dated 28.3.1988

Santhosh Kumar

passed by the Director Postal Services Dehradun is being filed herewith as Annexure No. A-7 to the application.

7. Details of the The applicant declares that he has remedies exhausted- exhausted all the remedies available to him under the relevant service rules i.e. by making representations refuting the charge levelled in compliance of the notice and statement of imputations of misconduct and misbehaviour and had appealed against the punishment inflicted upon him and the appeal too had been rejected.

8. Matters not previously The applicant further filed or pending in any court. declares that he had not ~~xx~~ previously filed any application or writ petition regarding the matter in respect of which this application has been made before any court of law or any other authority but for the departmental appeal before the Director of Postal Services, Dehradun ~~xx~~ which too has been rejected by him vide Annexure No. A-7.

9. Reliefs sought :On view of the facts mentioned in para 6 above the applicant prays for the following reliefs:-

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(I) a direction may be issued to the respondents 2 and 3 thereby setting aside the impugned order of punishment for recovery of Rs. 3300/- from the salary of the applicant dated 7.1.1987 passed by Respondent No. 2 and the appellate order rejecting the appeal of the applicant dated 28.3.1988 passed by Respondent No.3 (Annexures No. A-5 and A-7 respectively to the application)

Grounds on which (a). Because the Respondents no. 2 and the relief is being sought 3 must have based their orders sought. on sound reasoning and ~~not on sound~~ passing of the impugned orders by discarding the evidence on record and by dis-agreeing with the pleas in defence by the applicant which vitiates the whole disciplinary proceedings.

(b). Because the bag having been passed through different hands was opened by the Post Master of Dhampur Post Office who did not make any complaint about the condition of the bag and thereafter the complaint made by the Sub Post Master Nehtaur Post Office who had received the bag through the Sub Post Master Dhampur speaks the story that the

Sub Post Master

.15.

bag in question was sound and intact upto Dhampur Post Office exonerating the applicant of the charge levelled against him.

(c). Because the respondents did not take into consideration of the past history of service of all the persons ^{through} ~~in~~ whose hands the bag in question was passed on and in any case under the relevant Rules of Post Office Manual the insured letters are kept into the bag and the bag is sealed by the Head Sorter and not the mail opener/closer .

(d). Because the impugned orders are devoid of reasonableness and are against the principles of natural justice rendering the same of no legal consequence, arbitrary, illegal, erroneous, perverse and void ab-initio are ~~unreliable~~ liable to be declared as such.

(E.). Because the applicant had been ~~debarred~~ ^{debarred} of the chance to sit in the departmental examination for promotion in a higher scale i.e of Upper Division Clerk on the ground of pendency of disciplinary proceedings which tantamounted to punishment for the charge levelled against the applicant

S. K. Sharma

.16.

even before the ~~conclusion~~ of the disciplinary proceedings and the impugned order of punishment dated 7.1.1987 (Annexure No. A-5) is hit by the principle of double jeopardy. and cannot be sustained under law.

(f). Because the service -career of the applicant is unblemished and clean.

(g). Because the impugned order of recovery of pecuniary losses to the department from the salary of the applicant is not only a recovery but it casts clouds on the future prospects in the service-career of the applicant which purports to impose third punishment upon the applicant .

(h) Because it was incumbent upon the respondents no. 2 and 3 to have arrived at a decision on the basis of some evidence i.e evidential material which with some degree of definiteness points to the guilt of the delinquent in respect of the charge against him.

(i). Because suspicion cannot be allowed to take the place of proof in domestic enquiries.

Substantive

.17.

(II). A direction may be issued directing the respondents 1 to 3 to refund the deducted amount with interest @ 18% per annum deducted from the salary of the applicant till the date of making of refund to the applicant.

(a) Because the applicant's defence has not been pierced by the disciplinary authority nor by the appellate authority hence the deduction ^{made} on the basis of an order void- ab initio is illegal.

(The grounds mentioned in the above paragraph of relief (I) are being pressed for this relief also).

(III). Such other order or direction which may be deemed just and warranted in the nature and circumstances of the case may also be passed.

(IV). the costs of the application may also be awarded to the applicants against the respondents.

10. Interim Order, Pending final decision on the application the applicant seeks issuance of the following Interim Relief :-

(a). That for the facts, circumstances and reasons mentioned in paragraph Nos. 6

Amendments

.18.

and 9 of the application, it is most respectfully prayed that the respondents 1 to 3 be restrained from making any deduction from the salary and allowances of the applicant forthwith in pursuance of the impugned order dated 7.1.1987 and 28.3.1987 (Annexures No. A-5 and A-7 respectively to the application).

11. In the event of the application being sent through registered post, it may be stated whether the applicant desires to have oral hearing at the admission stage and if so he shall attach a self addressed Post Card/ Inland Letter at which intimation regarding the date of hearing could be sent.

NOT APPLICABLE.

12. Particulars of Bank Draft/ Postal Order in respect of the application fee :-

(a). Name of the Bank on which drawn.

not applicable

(b). Demand Draft No.

or

(a). Number of Indian Postal Order(s).

(b). Name of the issuing Post Office.

B.40/- CC 089040; B.7/- 13 P.922090
B.21/- D 3337460; B.1/- 8 48073968

High Court Branch
Post Office Lucknow

Simplex

- (c). Date of issue of Postal Order(s) 25-5-88
 (d). Post Office at which payable H.P.O. Allahabad.

13. List of enclosures:-

1. Notice alongwith statement of imputations of charge of misconduct or misbehaviour calling the applicant to submit his representation within 10 days.
- 2-3. Statements of Head Sarder Khushal Singh and Mail Man Khushal Mani.
4. Representation of the applicant dt. 11.8.86.
5. Impugned punishment Order dt. 7.1.1987.
6. Appeal dt. 12.2.1987.
7. Order rejecting the appeal dt. 28.3.1987
8. Vakalatnama.

VERIFICATION.

I, Ram Shiromani, son of Sri Mangaroo Ram, aged about 35 years, posted as Sorting Assistant in Returned Letter Officer, Lalbagh (Bhopal House) Lucknow do hereby verify that the contents of paragraphs 4 to 8 of the application are true to my personal knowledge and paras 9(a) to (d) ^{of India} and 9 a and 9 d ^{of India} are believed to be true on the basis of legal advice and that I have not suppressed any material fact.

Dated: Lucknow.

26-5-1988.

Ram Shiromani

(Signature of applicant)

Administrative
In the Central/Tribunal Allahabad Circuit Bench Lucknow 20-
Ram Siromani versus Union of India 8/12/85

Annexure NO. A-1

GOVERNMENT OF INDIA, DEPARTMENT OF POSTS
OFFICE OF THE SUPERINTENDENT OF POSTS DIVISION, SARANAMPUR

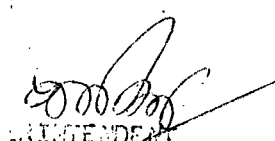
No. K-3/49/ECT/184/85 at Saranampur, the 5/12/1985

Shri Ram Siromani Sr. Asst. Secy. / Lakshar
is hereby informed that it is proposed to take action against him under Rule 13 of CCS (CCA) Rules 1985, A statement of imputations of misconduct or misbehaviour on which the action is proposed to be taken as mentioned is enclosed.

Shri Ram Siromani is hereby given an opportunity to make such representation as he may wish to make against the proposal.

If Shri Ram Siromani fails to submit his representation within 10 days of the receipt of this memorandum, it will be presumed that he has no objection to make and order, will be liable to be passed against Shri Ram Siromani exp. rt.

The receipt of this memorandum should be acknowledged by Shri Ram Siromani A/T. Secy. PRO/SRI. Lakshar.


SUPERINTENDENT
POSTS 'SI' DIVISION
SARANAMPUR-247001

Copy to:

1. Shri Ram Siromani SA/EC-1/PRO/SRI RRS

'SI' Division,

2. & The HSE/SRE

Lakshar with one spare copy which should be delivered to the official concerned under receipt, with date. The same should be returned to this office without delay.

4. The EC-1, O/Saranampur- For VR & Punishment Register.

6. Staff C-II, Saranampur- For PF of the official.

7. Office copy and copy.

S. KUFAR/**

photo
True/Copy attested
Rameshwar Singh
25-5-88

Statement of imputation of misconduct or misbehaviour against
Shri Ram Shirmeni SA Najibabad.

Shri Ram Shirmeni SA while working in Najibabad RMS/1 dated
1.2.85 as Mail Opener failed to keep the Regd. bag for Nagaur closed
by Najibabad RMS/1 dated 1.2.85 in his custody safely as during his
custody regd. bag was cut from the bottom by 4 1/2" which caused in
abstraction of 4 Insured letter NO. 878 Kandwali and Ins. 627 Calcutta,
Ins. 61 Bareilly (Bhopal) Ins. 853 Delhi G.P.O.

Thus the said Shri Ram Shirmeni showed a gross sense of
negligence and lack of devotion towards his duties and thereby
violated the provisions of rule 3 (i) (ii) and (iii) of CCS (Conduct)
Rules 1964.

Superintendent,
P.O. "SH" Division,
Bikaner, Raj.

Sanjay Kumar

True Photo Copy attested
Kishan Lal Adh.
25-5-88

In the Central Administrative Tribunal Allahabad
Circuit Bench Lucknow
Application No. 71988

Between

Ram Shrivastava _____ Applicant

~~Respondent~~

Union of India and
Others _____ Respondents

ANNEXURE NO. A-2

दिनांक 9.7.86 को निरीक्षण कर मजदूरों को भी संगठन
को निरीक्षण ई.आ.व. ने शमशेरामाजी को देखने देव स्वामी विद्वान
दिने तो मेरे साथ सील लगी सुतली रडि. फले पर काफी गई
तो छोटी की इसी ऊपर मेले बैंग की सुतली की छोटी की
क से उतीव हुन मिड/म नहें र ने को दूर से ल रहा
है। निरीक्षण मेले पर भी आजात को माने गये थे।

(Signature)
43 Ram Shrivastava

Shrivastava

True Photo Copy attested
Shrivastava
25-5-88

In the Central Administrative Tribunal Allahabad
Circuit Bench Lucknow
Application No. _____ of 1988

Between
Ram Shrivani _____ Applicant
And.
Union of India
and others _____ Respondents.

ANNEXURE NO. A-3

7-7-88 से ...
...
...
...
...
...

...
...

Shri Shrivani

BEFORE
BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD: CIRCUIT BENCH LUCKNOW.

APPLICATION NO. _____ OF 1988.

Ram Shiromani. Applicant.

Versus

Union of India and others Respondents.

ANNEXURE NO. A - 4

To

The Superintendent,
R.M.S. 'ISH' Division,
Saharanpur

Subject:- Alleged non-receipt of 4 Ins. letters
by SPM Mahtaur, from the regis. bag
closed by Najibabad RMS st-1 dt. 1.2.85.

Ref:- Your office charge sheet Memo No. K-3/49%
FCII/84-85 dt. 5.12.85.

Sir,

With due respect, I beg to submit my
defence as under that :-

I performed by duty in Najibabad RMS/1 as mail
opener and closer, under the immediate supervision
of the L.S.G. head sorter on 1.2.1985 and accord-
ing to the memorandum of distribution of work
issued by the superintendent of distribution
of work issued by the superintendent. On the

S. K. Sharma

.2.

day my duty commenced at 9-00 hrs. and ended at 17-00 hrs. During these duty hours I carried out the work in the mail office and attended thrains on the platform for exchange of mails as well. And the instructions contained in Rule 114 of P & T man. Vol VII had been strictly complied with by me. On the day there was only one regular mailman who worked as set ported in regn. branch and the other 4 officials were casual labourers who were doing the duties of class IVth officials.

The work connected with the receipt of mails and opening of mail bags and TB's was vigidly by me and nothing unusual happened or reported. Then within the stipulated time fixed for closing the mails as contained in Rule 58 of the Posts and Telegraphs Manual, Volume V and supported by Rule 119 of Volume-VII I started the work of closing bags keeping all the prepared regd. bags and parcel lists in my personal sage custody. Around 16 hours ins. regid. bag of Nehtaur alongwith the other Ins. bags was personally handed over by the Head Sorter/~~Suppervisor~~ who was sitting in the same hall where the mail bags were closed. As in this office mail agency is not a separate branch, so the Head Sorter/supervisor asked to key direct visist, till the insured regid. bags were placed in the mail bags and sealed thus all the bags including Nehtaur were closed in

Santhosh Kumar

.3.

the presence & direct supervision of Head Sorter. Around 16 hours, I closed the mail bag for Nehtaur I had continuously seen that the regd. bag closed by the regn. sorter was securely fastened and properly sealed and the canvas bag used for the regd. bag was intact, secure and strong. The regd. bag was put in the mail bag after the detailed examination and check in the manner prescribed by the rules. The canvas used in the mail bag for Nehtaur was quite sound and of medium size. All the mail bags were sealed by the mail seal in my presence and kept the seal in my custody. Afterwards I started the work of T.B's. closing. I closed 2 T.B's for Dhampur. The mail bags closed by the set for Dhampur and Nehtaur were enclosed in one T.B. and the other bags in other. Then all the bags were once again sorted out and placed at proper place in heaps in the cage T.B. The T.B. was sealed with mail seal. The mail seal was then put in the set almirah and the key kept by the H.S.

At 16-40 hrs. the relieving sorter Shri Hem Singh attended to his duty. Shri Hem Singh examined and checked the entire mails received by him in transfer. I made over the deposit mails under entry in the mail list and handed over charge of the office to my reliever Sri Hem Singh

Shri Hem Singh

.4.

sorter who was to work as time sorter no. 5 in the succeeding set with his duty from 16-40 hrs. to 5-30 hrs. The instructions contained in rule 121 of Vo VII were properly complied with. The charge was taken over and accepted by Shri Hem Singh without any hitch or objection. Under Rule 112 of Volume VII the responsibility of my reliever began when close d mails were made over to him at 16.40 hrs. and continued until the bags were delivered or dispatched to destination. Under the said rule he was further responsible that the bags dealt with by him were carefully examined, properly treated and correctly disposed of. During the duty hours, no untoward incident happened and nothing wrong was reported.

Only on 4.2.1985, it was learnt through S.R.O. Najibabad that the S.P.M. Nehtaur vide his office E.B.No. 51 dated 2.2.85 has reported non receipt of four insured letters numbered 878, 627, 61 and 853 entered in the refs. list of Najibabad R.M.S. /1 dt. 1.2.85 alongwith 15 ordinary regd. letters. In his E.B. the S.P.M. had indicated that the regd. bag was found cut by blade in the bottom covering cut area of 4 inches. He had also mentioned in his report that the mails from Dhampur were received in Nehtaur post office at 12.25 hours that day that is 2.2.85.

Sanjay Kumar

.6.

important and necessary me in connection with my defence statement and some of them were made seen to me through I.R.M. Najibabad. The canvas bag of mail bag submitted by the S.P.M. Nehtaur as an exhibit was also shown to me along with the cord and label used by NBD RMS/1 while closing mail bag for Nehtaur on 1.2.85. Small and medium size canvas bag was used while Nehtaur mail bag was closed by N.B.D. RMS/1 on 1.2.85 but in the course of enquiry a foreign type very long and wide canvas was shown to me by the Inspector for having preserved by the S.P.M. Nehtaur as the canvas bag used by NBD RMS/1 dt. 1.2.85 in the Nehtaur mailbag. When the Inspector and also some other staff tried their best to fasten the cord and label on this bag, they could not do so and the label cord fell too short every time. It was not the original canvas bag which was used NBD RMS/1 in closing mail bag for Nehtaur on 1.2.85. Besides, the canvas bag used by Dhampur in closing T.B. Nehtaur was shown by I.R.M. while the relevant documents were shown by him in the course of inquiry. The canvas bag was found formed on its lower side and this created a suspicion that the mail bag should also be formed. But the canvas bag of mail bag which was shown to me was not original, which was used in closing the mail bag by me. The S.P.M. Nehtaur failed, too, to make any report against Dhampur while he got the formed canvas bag of T.B. Dhampur.

S. Dhampur

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD: CIRCUIT BENCH LUCKNOW.

APPLICATION NO. OF 1988

Ram Shiromani.Applicant.

v/s

Union of India and othersRespondents.

ANNEXURE NO : A-5

INDIAN DEPARTMENT OF POSTS.

OFFICE OF THE SUPERINTENDENT R.M.S. 'SH' DIVISION
SAHARANPUR - 247 001.

Memo No. K-8/49/EC-II/84-85 Dated at Saharanpur
the 7-1-87.

....

It was proposed to take disciplinary
action under rule-16 of CCS (CCA) Rules, 1965
against Shri Ram Shiromani S.A., SRO Laskar(Now working at N.Baf) vide this office memo No.
even dated 5.12.85 on the basis of statement
of imputations of misconduct or misbehaviour
which is reproduce below :-

"Shri Ram Shirmani S.A. while working in
Najibabad RMS/1 dated 1.2.85 as mail opener
failed to keep the Regid. bag for Nehtaur
closed by Najibabad RMS/1 dtd. 1.2.85 in his
custody safely as during his custody regd.

Shri Ram Shiromani

.2.

bag was cut from the bottom by 4 $\frac{1}{2}$ " which caused in abstraction of 4 Ins. letters No. 878, Kandivili, 727 Calcutta, 61 Bareilly (Bhopal) and Ins. 853 Delhi G.P.O.

Thus the said Shri Ram Shirmani showed a gross sense of negligence and lack of devotion towards his duties and thereby violated the provisions of Rule 3.1.(ii)&(iii) of CCS (Conduct) Rules, 1964"

The said Shri Ram Shirmani SA was given an opportunity to submit his defence within 10 days of the receipt of this officememo of No. even dated 5.12.85 which was delivered to him on 7.12.85. The official submitted an application dated 11.12.85 demanding for some documents and exhibits of the case for inspection. He was shown the relevant documents and exhibits through the IRM Najibabad vide this office letter No. even dated 26.6.86. Thereafter he submitted his defence dated 11.8.86 which was received in this office on 12.8.86 under SRO N. BadL.No. 885 dated 11.8.86. The defence of the official is discussed as under :-

I have^{gone} through the statement of imputations of misconduct levelled against the said Shri Ram Shirmani SA and his defence dt. 11.8.86. In his defence, the official has stated that the regd. bag for Nahtaur closed by Najibabad RMS/1 dated 1.2.85 was secretly fastened, properly sealed

~~xxxxxxxxxxxx~~ba

.3.

and the canvas bag used for the regd. bag was intact, secure and strong. He has also stated that the said regd. bag was put in mail bag after detailed examination and check and the canvas bag used for the mail bag for Nahtaur was quite sound. But, the fact as revealed from the investigation in the case is that on opening the mail bag for Nahtaur closed by Najibabad RMS/1 dt. 1.2.85 at Nehtaur P.O. the regd. bag closed by Najibabad RMS/1 dt. 1.2.85 received in the mail bag was found cut at the bottom by 4½" sufficient to abstract the contents and the 4 (Four) Insured letters i.e. Kandiveli Ins. letter 878, Calcutta Ins. letter 627, Sareilly (Bhopal) Ins. letter 61 and Delhi GPO Ins. letter 853 were not received and were found missing.

Now the main point for consideration in this case ~~xxxx xxxx~~ is as to where the abstraction of the four Ins. letters might have taken place. The canvas bag used for the mail bag for Nehtaur closed by Najibabad RMS/1 dt. 1.2.85 was not cut at anywhere but only the regd. bag of Najibabad RMS/1 dt. 1.2.85 contained in letters were abstracted from it. From this it can be inferred that the abstraction of the said Ins. letters by cutting regd. bag at its bottom has not taken place in transit in as much as the conditions of the said mail bag chord and seal was sound, when received at Nehtaur. Therefore, the abstraction of four Insured

.4.

letters must have taken place while the said regd. bag for Nehtaur was in the custody of Shri Ram Shiromani in as much as there were no other chances of any point for such an abstraction.

In his defence, the said Shri Ram Shiromani has submitted the plea that the canvas bag shown as exhibit as one used by Najibabad RMS/1 dt. 1.2.85 for closing the mail bag for Nehtaur was not the bag actually used, saying that the chord with label fall too short. But the examination of the exhibit by me revealed that his plea was not a fact but a bit of fiction as the length of the chord was 19 CMs which was sufficient for closing the said bag. The other points raised and the rules quoted by the official in his defence need no comment as they are not relevant.

As discussed in the foregoing paras, the charge that Shri Ram Shiromani failed to keep the said regd. bag for Nehtaur closed by Najibabad RMS/1 dt. 1.2.85 in his custody safely is established beyond doubt, which resulted in the loss of Rs. 3300/- to the Department.

Thus, the said Shri Ram Shiromani failed to maintain devotion to duty, and behaved in the manner unbecoming of a Govt. servant contravening the provisions of Rule 3 (1) (ii) (iii) of CCS

Shri Ram Shiromani

.5.

(Conduct) Rules, 1964.

wherefore I, M.V. Deshpande, S.R.M. 'SH'
Division hereby

ORDER

that the amount of Rs. 3300/- (Rupees three thousand and three hundred only) should be recovered from Shri Ram Shiromani, S.A. in 33 (Thirty three) monthly instalments of Rs.100/- each (Rupees One hundred only) from his pay allowances commencing from January, 87.

sd/- illegible.
7/1

(N.V. Deshpande)
Superintendent.

R.M.S. 'SH' Division
Shaharanpur-247001.

Copy to :-

1. Shri Ram Shiromani SA c/o SRO Najibabad
- 2-3. The SRO Najibabad- with a spare copy of the memo to be delivered to the official under receipt. Receipt may be returned to this office for record.
4. The HRO(A/Cs) 'SH' on Saharanpur-for necessary action.
- 5-6. The Steno to SRM 'SH' Dn. for C.R. & memo of service of the official.
7. Staff II for PF 8. Copy for VR&PR
- 9-10. O/C & Spare.

.....

TRUE COPY

25-8-88

Shri Ram Shiromani

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD : CIRCUIT BENCH LUCKNOW.

APPLICATION NO. OF 1988

Ram Shriromani.Applicant

v/s

Union of India and others.Respondents.

ANNEXURE NO. : A-6

To

The Director
Postal Services,
Dehradun Region,
Dehradun-248001.

(Through Proper Channel).

Subject: Appeal against the order of the Supdt.
R.M.S. "SH" Division, Saharanpur memo No.
K-3/49/EC-11/84-85 dated 7.1.87 ordering
the penalty of recovery of Rs 3300/- of loss
case of 4 insured letters.

Reference: The following documents are attached
H/W this appeal for your ready reference.

- 1). Copy of charge-sheet memo no. K- 3/49/
EC11/84-85 dated 5.12.85.
- ii). Copy of Defence submitted on 11.8.86.
- iii). Copy of decision given by the SRM Memo
No. K-3/49/EC11/84-85 dated 7.1.87.

.....

Shriromani

.2.

Respected Sir,

Most humbly and respectfully your humble applicant Ram Shirmani Sorting Assistt., Najibabad RMS appeals to your honour against the above orders of S.R.M. 'SH' Division and prays for early favourable decision.

1). Facts of the Case:- That vide S.R.M. "SH" Division, Saharanpur memo No. K-3/49/EC-11/84-85 dated 5.12.85 I have been chargesheeted for the following charges :-

Shri Ram Shrimani S.A. while working in Najibabad RMS/1 dated 1.2.85 as mail opener failed to keep the regd. bag for Nehtaur closed by the Najibabad RMS/1 dated 1.2.85 in his custody safely. During his custody the regd. bag was cut from the bottom by 4 1/2" which caused in abstraction of 4 insured letter Nos. 878/Kandvali 627/Calcutta, 61, Bareilly (Bhopal and 853 Delhi G.P.O..

Defence:- I have submitted my defence on 11.8.85 (copy enclosed) to S.R.M. giving full facts in this loss case. I performed by duty in Najibabad RMS/1 dated 1.2.85 as mail opener and closer under the immediate supervision of L.S.G., Head Sorter on 1.2.85. I opened all mail bags and closed in Najibabad RMS/1 dated 1.2.85. No report was received from any office except S.P.M. Nehtaur.

Shri Ram Shirmani

.4.

(5). The regd. bag for Nehtaur containing four ins. letters was put in the mail bag and after closing it under the supervision of L.S.G. Head Sorter was transferred to another, mail agent Shri Ram Singh S.A. Najibabad RMS. The decision of the SRM that the alleged regd. bag remained in my custody and tookout four Ins. letters, is absolutely wrong because the regd. bag was closed in the supervision of Head Sorter and all other including five mail men. After that it was transferred to Shri Ram Singh mail agent, who took over the charge at 16.40 hrs.

(6). The regd. bag for Nehtaur reached Nehtaur through the following employees and section, at following time shown against each.

(i). Mail bag closed by Najibabad/RMS/1 and transferred to mail agent Najibabad/2 at 16.40 hrs.

(ii). The mail agent kept the mail bag in his custody from 16.40 hrs to 18.00 hrs.

(iii). The mail agent Najibabad /2 took over the charge at 18.00 hrs and kept under his custody upto 3.20 hrs. & then despatched to L.W. 25 in section correctly.

(iv). L.W. 25 in transferred to mail peon Dhampur at approximately 4.00 hrs & ultimately mail peon handed over to P.M. Dhampur.

Sundar

.7.

d). The P.M. Dhampur had closed this mail bag of Nehtaur in his T.B. Bag. If there had been hole of 4 $\frac{1}{2}$ " the P.M. Dhampur must have reported maagainsst Najibabad RMS/l dt. 1.2.85 but the P.M. Dhampur made no report against Najibabad RMS/l. This proves that the loss case took place neither in my presence or in my office at Najibabad RMS/l dt. 1.2.85. This loss has been committed either by mail peon Dhampur (Causal labourers) or SPM Nehtaur because the mail bag of Nehtaur remained in my custody for a very short period.

e). The employees to whom these preserved bags shown alongwith me are the following:-

- (i). IRM Najibabad RMS.
- (ii). Khushal Singh RS. Najibabad RMS.
- (iii). Khushal Mani Mail Man Najibabad RMS.

On seeing these preserved bags the above employees were also of the opinion that these bags which have been preserved by the SPM Nehtaur were not used by Najibabad RMS/l. The regd. bags which were preserved by the SPM Nehtaur was too big to be used as a T.B. bag. It seemed that this loss case was the act of mail peon Dhampur or SPM Nehtaur.

I assure you "Sir" as "God" my witness that I am not at fault in this loss case and this

.2.

from the bottom by 4-1/2" which cause in abstraction of 4 Insured Letters No. 878Kandvali and Ms. 627 Calcutta Ins. 81 Bareilly(Bhopal) Ins. 853 Delhi G.P.O.

Thus the said Shri Ram Shiromani showed a gross sense of negligence and lack of devotion towards his duties and thereby violated the provisions of rule (i)(ii) and (iii) of CCS (Conduct) Rules, 1964."

I have gone through the appeal of Shri Shiromani S.A. Najibabad R.MS against the recovery of Rs. 2000/- in 33 equal instalments of Rs. 100/- each given by the S.R.M.'SH' division, Saharanpur and have come to the conclusion that the punishment is fully justified.

The appellant has pleaded himself innocent of the charges for causing loss in the Registered Bag for Nihtaur which was kept in his custody by arguing that he had received the Registered Bag from the Head Sorting Assistant without ~~the Registered Bag~~ challenge and further he enclosed it in the Mail Bag in proper condition. He has also pleaded that the bag in question was closed under the supervision of the H.S.A. and also transferred under the supervision of the H.S.A. to another Mail Agent in sound condition.

I cannot however, agree with these pleas

.3.

and arguments of the appellant. The fact that the mail bag was opened at Nihtaur Post Office where the Registered Bag was found cut from bottom and 4 of the Insured letters found missing from it while the condition of the seal of the Canvas Bag and Mail bag was quite sound along proves that the loss took place before the Registered bag was placed inside the Mail Bag, the occurrence of loss has to be ruled out.

In the light of the above, I, therefore find the appellant fully guilty of the charges levelled against him by the disciplinary authority and therefore consider that the punishment of recovery of Rs. 3000/- in 33 instalments of Rs. 100/- each awarded by the SRM'SH' Division, Saharanpur, should remain against him. The appeal is, therefore, considered rejected.

sd/- illegible
Director Postal Services
Dehradun Region.

TRUE COPY.

Prakash Chandra
25-5-88

Saharanpur

ब अदालत श्रीमान्

2 H Central Administrative Tribunal

Allahabad District Bench महोदय

[वादी] अपीलान्त

Juelan

प्रतिवादी [रेस्पाडेंट]



वादी (अपीलान्त)

Ramesh Chandra

Union of India and others

प्रतिवादी (रेस्पाडेंट)

नं० मुकद्दमा

सन

पेशी की ता०

१९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Rakesh Kumar Swaraj

Anand Bar Association High Court Bench

वकील

Juelan

महोदय

एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखली) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार की भेजता रहूंगा अगर मुकद्दमा अदम पैरबी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

Ramesh Chandra

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन १९

ई०

स्वीकृत

Accepted
Ramesh Chandra
25-1-74
Advocate

CA



A/47

In the Central Administrative Tribunal, Circuit Bench,
Lucknow.

Counter-Affidavit

In

Registration No. 32/88(L).

Ram Shiromani ..

..Petitioner.

Versus.

Union of India and others..

... Respondents.

Affidavit of D.S.Mehra, —
aged about 51 years, son —
of Sri K.S.Mehra, —
Superintendent, R.M.S. (SH) —
Division, Saharanpur. —

Deponent. —

I, the deponent, abovenamed, do hereby —
solemnly affirm and state as under:- —

1. That the deponent is working as —
Superintendent, R.M.S. (SH) Division, Saharanpur —
and has been authorised to file the present —
counter-affidavit on behalf of the respondents —
in the aforesaid case. He is, as such, well acquainted —
with the facts of the case deposed to below. —

Deponent

2.

2. That the deponent has read the contents of the petition and has fully understood the same.

3. That before giving parawise reply to the petition it is necessary to give brief history of the case to understand the controversy raised by means of this petition.

4. That four insured letters Nos. 878 dated 29.1.1985 for Rs. 1200/- booked from Kandiveli, 627 dated 30.1.85 for Rs. 500/- booked from Calcutta, 61 dated 28.1.1985 for Rs. 600/- booked from Verelly (Bhopal) and 853 dated 31.1.1985 for Rs. 1000/- booked from Delhi G.P.O. from the registered bag closed by Najibabad RMS/1 dated 1.2.85 for Nehtaur Post Office were lost.



The bag was received by Sri Ram Shiremani without challenge and closed in a Mail Bag for Nehtaur Post Office where it was found cut 4" in the bottom and Insured letters missing. The

When the case came to light on receipt of a copy of Error book-51 dated 2.2.1985 from Sub Post Master, Nehtaur who had reported that the above cited insured letters were not received from the registered bag under reference and the canvass bag used for closing a registered bag was found cut by 4" from its bottom. The Mail bag closed by Sri Ram Shiremani was intact till its opening at Nehtaur post office.

Highness

14/1

.3.

That enquiries were made into the case have revealed that the registered bag containing 15 registered letters and 4 Insured letter detailed above was handed over to Sri Ram Shiromani mail closer of Najibabad R.M.S./1 dated 1.2.1985 by the HSA/registered Sorting Assistant of the set without any challenge whatsoever regarding the condition of its seal and canvass bag used. The said registered bag was closed in the mail bag for Nehtaur by the mail closer Sri Ram Shiromani. The mail bag thus closed was despatched to Nehtaur Post office through the usual prescribed route and handled by mail closer Najibabad RMS/2 dated 1.2.1985, Mail grade LW-25 IN, Mail peon Dhampur Head Office, mail Bus conductor Dhampur and Mail peon Nehtaur Post office without least suspicion of its seal or safe condition of the mail bag. The mail bag under reference was cut and opened in Nehtaur post office and the registered bag received inside was found out by 4" on its bottom and on verification the contents of 4 insured letters entered in the registered list were found missing altogether.



In view of the facts narrated above it was obvious that Sri Ram Shiromani, ~~SMA~~ sorting Assistant, Najibabad, RMS/1 dated 1.2.1985 was the only suspect to be responsible for the loss of

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.4.

the four insured letters due to being the mail bag intact and having received the registered bag intact and without challenge and the registered bag was found cut in bottom having only the Insured articles missing.

Accordingly, Sri Ram Shiromani, Sorting Assistant was proceeded against Rule-16 of CCS(CCA) Rules, 1965 vide Superintendent, RMS(SH) Division Memo no. K-3/49/EC-II/84-85 dated 5.12.1985 and awarded a punishment of recovery pertaining value of four insured letters amounting to Rs. 3300/- to be recovered in 33 instalments of Rs. 100/- per month from his pay vide Memo No. K-3/49/84-85 dated 7.1.87.

An appeal was preferred by the said Sri Ram Shiromani, Sorting Asstt. on 12.2.87 which had been considered and rejected vide appellate order No. VIG/DPS/45/88 RMS dated at Dehradun the 28.3.1988.

5. That the contents of paras nos. 1 to 5 of the petition are matters of record and, as such, requires no reply by means of this affidavit.

6. That the contents of para no. 6(1) of the petition are matters of record and, as such, requires no reply by means of this affidavit.

7. That the contents of para no. 6(2) of the petition are not admitted, as stated therein. It

Signature

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.5.

is submitted that the supervision of the Head Sorting Asstt. was a general supervision and not a direct supervision as per rule -48 of P&T. Manual Volume VII(Eight Edition corrected upto 1.4.1986):

8. That the contents of para no.6(iii) of the petition are not admitted. It is submitted that the averments made by the petitioner that he had closed mail bags under the direct and immediate supervision of the LSGH Sorting Asstt. with the compliance of Rules and methods is not correct. Head Sorting Asstt. is the Incharge of the set and the whole set works under his general supervision as per Rule-48 of P&T Manual, Volume VII. The applicant's version that the every mail bag was closed in immediate supervision of the Head Sorting Asstt. is not correctly based and he is fully responsible for closing of mails as per rules.



9. That the contents of para no.6(iv) of the petition are matters of record, and as such, requires no reply by means of this affidavit.

10. That the contents of para no.6(v) of the petition are matters of record, and as such, requires no reply by means of this affidavit.

11. That the contents of para no.6(vi) of the petition are matters of record and, as such, requires no reply by means of this affidavit.

Signature

A/52

.6.

12. That the contents of para no.6(vii) of the petition are not admitted as stated therein. It is submitted that mail bag in question was not opened at Dhampur. The petitioner had made confusing averments. It is stated that actually a transit bag which was also containing the said bag was opened at Dhampur as usual. The bag was further closed in a Transit bag in sound condition in another transit bag for Nehtaur Post office prepared by Dhampur Head Office.

13. That the contents of para no.6(viii) of the petition are not admitted. It is submitted that Sub Post Master Nehtaur had reported against the registered bag closed by Najibabad RMS/1, dated 1.2.1985 and not against the mail bag as claimed by the petitioner. The mail bag was received in sound condition by the Sub Post Master, Nehtaur.

14. That the contents of para no.6(ix) of the petition are not admitted. It is submitted that the Sub Post Master Nehtaur and Post Master Dhampur work under the administrative control of Sub Post Offices Bijnor, their involvement in the loss and fraud cases has not relevancy with the particular case.

15. That the contents of para no.6(x) of the petition are matters of record and, as such, requires no reply by means of this affidavit.

Signature

A/53

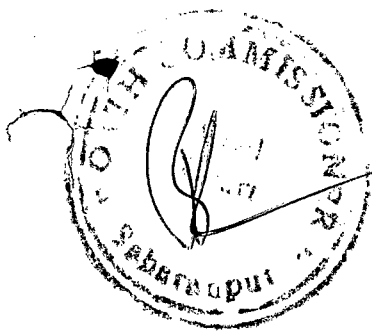
.7.

16. That the contents of para no.6(xi) of the petition are not admitted. It is submitted that all the relevant documents were shown to the applicant and he was given full opportunity for his defence.

17. That the contents of para no.6(xii) of the petition are not admitted. It is submitted that all the documents filed by the petitioner were shown to him by the Incharge RMS., Najibabad on 9.7.1986 without the presence of any witnesses or protest or contest by the petitioner. The petitioner has given a certificate for having seen the documents. A true copy of the same is being filed herewith and marked as Annexure-CAI to this affidavit.

18. That the contents of para no.13 of the petition are not admitted. It is submitted that the chord was again examined by the disciplinary authority on the day of decision, considering the representation of the applicant and it was found that the length of the chord preserved by the ~~Sub-Post~~ Sub-Post Master, Nehtaur as exhibits was equal in length with the length of the chord tested on the day of decision. A mere version of the petitioner does not prove good as the defence of the petitioner lacked all the documents, he now produces without their authenticity being checked during enquiry and the documents appear only as cover up.

Signature



184

.8.

19. That in reply to the contents of para no.6(xiv) of the petition it is submitted that the representation of the applicant has been discussed thoroughly in the punishment orders by the Disciplinary authority and are clear and speaking orders.

20. That the contents of para no.6(xv) of the petition are not admitted. It is submitted that the punishment orders have been passed after considering the representation of applicant thoroughly. The representation was found quite unsatisfactory and inconvincing and the charges of the chargesheet were found fully proved, As such the punishment order is a speaking orders.

21. That the contents of para no.6(xvi) of the petition are matters of record, and, as such requires no reply by means of this affidavit.

22. That the contents of para no.6(xvii) of the petition are matters of record and, as such requires no reply by means of this affidavit.

23. That in reply to the contents of para no.7 of the petition it is submitted that the petitioner has not exhausted departmental remedy inasmuch as he has not exhausted remedy of review

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9.

under Section-29-A of CCS(CCA) Rules, 1965 to the Superintendent, Post & Telegraph Board.

24. That the contents of para no.8 of the petition are matters of record and, as such, requires no reply by means of this affidavit.

25. That in reply to the contents of para no.9(i) of the petition it is submitted that the petitioner is not entitled to any reliefs claimed under this paragraph.

26. That in reply to the contents of para no.9(1)(a) of the petition it is submitted that the averments made therein are misconceived and not admitted. The punishment orders passed by the ~~appellate~~ competent authority as well as the appellate authority are speaking orders. and there is no infirmity ~~in~~ or illegality in the same.

27. That the averments made in para no.9(i) (b) of the petition are not admitted. It is submitted that the mail bag at all stages was in sound condition. Moreover, the mail bag was not opened at Dhampur Head Office any place prior reaching its destination at Nehtaur Post office.

28. That the contents of para no.9(1)(c) of the petition are not admitted. It is submitted

Signature

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.10.

that a registered bag received intact by the _____
petitioner was found out at the bottom in a mail _____
bag closed by him and mail bag was sound at all _____
stages of its handling and no adverse reports _____
came. _____

29. That in reply to the contents of para _____
no.9(i)(d) of the petition it is submitted that _____
as already stated in reply to para no.6(iii) of _____
the petition it is quite clear that the punishment _____
orders are fully justified and based on least _____
considerations and reasonable grounds. Therefore, _____
the contention of the petitioner is baseless and _____
based on no facts. _____



30. That in reply to the contents of para _____
no.9(i)(e) of the petition ~~sixth~~ it is _____
stated that the applicant was not deprived of the _____
chance to sit in departmental examination for _____
promotion only due to this case. There were many _____
considerable reasons. _____

31. That the contents of para no.9(i)(f) _____
of the p tition are not admitted. It is submitted _____
that the contention of the petitioner that the _____
service carrier of the applicant is unblemished _____
is not based on facts as he was involved in other _____
loss and abstraction cases at Najibabad R.M.S.. _____

Signature

A/ST

.11.

32. That the contents of para no.9(i)(g) of the petition are not admitted. It is submitted that the recovery orders were given by the disciplinary authority after due consideration and have sufficient grounds for the misconduct of the petitioner.

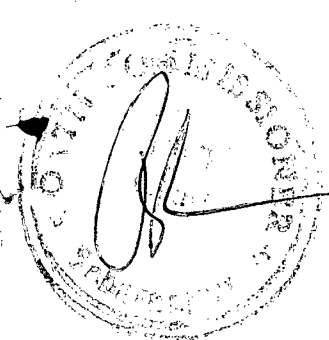
33. That the contents of para no.9(i)(h) of the petition are not admitted. It is stated that there is single material evidence enough for his involvement that the valuable contents of registered bag received intact and despatched and found missing and damaged by the receipt office.

34. That in reply to the contents of para no.9(i)(i) of the petition it is submitted that there is clear evidence in this case but not suspicion as submitted by the petitioner, hence not admitted.

35. That in reply to the contents of para no.9(ii) of the petition it is submitted that the petitioner is not entitled to any relief or direction as claimed in para under reply. and the petition is liable to be rejected with costs.

36. That in reply to the contents of para no.9(ii)(a) of the petition it is stated that

Signature



8/8

.12.

the punishment orders are self explanatory and based on full consideration. The defence of the applicant had been examined thoroughly by the Disciplinary authority which was found quite unsatisfactory. As such the version of the applicant is baseless. The petition requires to be rejected.

37. That in reply to the contents of para no.9(iii) of the petition it is submitted that the petitioner is not entitled for any relief and the petition is liable to be rejected.

38. That the contents of para no.9(iv) of the petition are not admitted. The petition is liable to be rejected with costs.

39. That in reply to the contents of para no.10(a) of the petition under the heading Interim relief, it is submitted that the petitioner is not entitled for any interim relief as prayed in para under reply and the petition is ~~wholly~~ wholly misconceived.

40. That the contents of paras nos.11,12, 13 of the petition are matters of record and, as such, requires no reply by means of this affidavit. The petition is liable to be dismissed with costs.

I, the deponent, abovenamed, do hereby

Highness



13

.13.

verify and declare that the contents of para nos.

... 1 and 2

of this affidavit are true to my personal knowledge;

those of paras nos... 3 to 40

of this affidavit are based on information

received from perusal of the papers on record;

those of paras nos...

of this affidavit are based on legal advice

which all the deponent believes to be true;

that no part of this affidavit is false and

that nothing material has been concealed in it.

So help me God.

Deponent.

Sgt Kar Husain Jaich Basant Singh

I, R.C. Yadav, clerk to Sri Ashok Mohiley,
(D.G.C. Civil) Civil Court Saharanpur,
Advocate, High Court, Allahabad do hereby declare

that the person making this affidavit and alleging

himself to be Sri D.S. Mehra is the same person

who is personally known to me.

Clerk.

R.C. Yadav
Clerk
in Saharanpur
DE 2
5/12

Exhibit

Sri D.S. Mehra Deponent
Solemnly affirmed before me on

this 5 day of December, 1988 at 7.25 a.m./p.m.

by the deponent who is identified by the Sgt Kar Husain

aforesaid clerk.

A/60

.14.

I have satisfied myself by examining the deponent
that he understands the contents of this affidavit —
which have been read over and explained to him —
by me.



Oath Commissioner

5/12/88

(RAJ PAL SINGH)

Advocate

(Civil Court Saharanpur)

Annexure CA I

भारतीय डाक-तार विभाग
INDIAN POSTS AND TELEGRAPHS DEPARTMENT

Inspector R. M. S.,
SH - II nd, Sub Division
RAJIBABAD - 246763

Regd.

कृपया दो वरक जवाब
प्रश्न संकेत में
In reply
Please quote

From

To

The Superintendent
RAC SH Division
Saharanpur 247001

कम संख्या
No.

दिनांक

प्रति

विषय

SUBJECT

Disciplinary proceedings under

Rule 14 regarding alleged non receipt of 4 Pds. letters
from the Regd. bag closed by Rajibabad RAC/1 dated
1-2-85 by the SPM Nehlaur.

Ref:- your letter NO. K-3/49/86-85 dated 26-6-86.

With reference to your letter cited above
it is intimated that the C.B. NO. 51 dated 2-2-85
issued by SPM Nehlaur as shown at SH I has not been
received with the enclosures. All documents except
above noted E.B. have been shown to the official
concerned on dated 9-7-86. A certificate with date
and signature is attached herewith.

All exhibits except E.B. NO. 51 issued by SPM
Nehlaur are returned herewith for favour of further
disposal at your end.

- DA - 8
- ① Seal, card, label of H.B. N. and RAC/1 dated 1-2-85
 - ② _____ Regd. bag _____
 - ③ _____ of TB Manuf. dated 2-2-85
 - ④ C. bag of Hail bag N. Bag RAC/1 dated 1-2-85
 - ⑤ _____ Regd. bag _____
 - ⑥ _____ TB Manuf. dated 2-2-85
 - ⑦ Twine
 - ⑧ Certificate

Inspector R. M. S.,
SH - II nd, Sub Division
RAJIBABAD - 246763

Photostat Copy

अनुमोदित
दिनांक 12/8/86
महोदय
२० डा० ०० 'दूरदर्शन' मण्डल
सहारनपुर-२४७००१

48

आज दिनांक 9-7-86 को मुझे निदेशक नजीबानाद द्वारा
निम्न लिखित मुद्दामें न्याय दिया गया है -

1. सील, कार्ड, लेवल, नजीबानाद ₹० ३००००/-, दि० 1-2-85 द्वारा
बन्द किसे गये अक देखे का ।
2. सील, लेवल, कार्ड, नजीबानाद ₹० ३००००/-, दि० 1-2-85 द्वारा
बन्द किसे गये बन्नीकृत देखे का ।
3. सील, कार्ड, लेवल धामपुर दि० 2-2-85 द्वारा बन्द किसे
गये ली० ली० देखे का ।
4. सी० बैंग नजीबानाद ₹० ३००००/-, दि० 1-2-85 द्वारा
बन्द अक देखे का ।
5. सी० बैंग नजीबानाद ₹० ३००००/-, दि० 1-2-85 द्वारा
बन्द किसे गये बन्नीकृत देखे का ।
6. सी० बैंग धामपुर दि० 2-2-85 द्वारा बन्द किसे गये
नB देखे का ।

7 सुवली

Jambhirmann

Sty AssH

Rms A-Bad

dt 9-7-86

Photostat Copy

attested

Signature

अधीक्षक ५४

रे० डा० व्य० 'बलरुच' प्रखण्ड
सहारनपुर-२४७००१

(50)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH LKO.

OA. NO. 32 (L) / 88

A/3

Ram Shivramani

Petitioner/Applicant

Versus

Union of India and others

Respondents

APPLICATION FOR ADJOURNMENT

Sir,

I am representing the applicant in the abovesaid case. It is submitted that I am not feeling well since last night and as such I could not prepare the case today for argument.

Therefore, it is requested that the aforesaid case may be adjourned today and for today's proceedings any other date may be fixed.

Witnessed Dated
18/11/92

Rakesh Kumar Adv

[Rakesh Kumar Srivastava]
Advocate

Counsel for the Applicant

A/681

In the Central Administrative Tribunal Allahabad Bench

Registered No. 32 of 19 88 (L)
Union of Indus Dars

Petitioner/s. }
Plaintiff/s. } Vs. { Respondent/s Opp. Parties.
Decree-holder/s. Complainant/s, } { Defendant/s
Judgment-Debtor/s Accused.

I/We D.S. Mehra, Supdt. R.M.S. S.H. Division
the
Nos. Saharanpur In the above matter hereby appoint and retain

ASHOK MOHILEY ADVOCATE HIGH COURT

to appear, act and plead for me/us in the above matter and to conduct/prosecute and defend the same in all interlocutory or miscellaneous proceedings connected with the same or with any decree or orders passed therein, appeals and or other proceedings therefrom and also in proceedings for review of judgement and for leave to appeal to Supreme Court and to obtain return of any documents filed therein, or receive any money which may be payable to me/us.

2. I/We further authorise him to appoint and Instruct any other legal practitioner authorising him to exercise the powers and authorities hereby conferred upon the Advocate whenever he may think fit to do so.

3. I/We hereby authorise him/them on my/our behalf to enter into a compromise in the above matter, to execute any decree/order therein, to appeal from any decree/order therein and to appeal, to act and to plead in such appeal or in any appeal preferred by any other party from any decree / order therein.

4. I/we agree that if/we fail to pay the fees agreed upon or to give due instructions at all stages he/they is/are at liberty to retire from the case and recover all amounts due to him/them and retain all my/our monies till such dues are paid.

5. And I/We, the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my own acts, as if done by me/us to all intents and purposes.

Executed by me/us this day of 19 at

Signature
Signature/s

Executant/s are personally known to me he has / they have signed before me

Satisfied as to the identity of executant/s signature/s.

(where the executant/s is/are illiterate, blind or unacquainted with the language of vakalat).

Certified that the contents were explained to the executant/s in my presence in.....the language known to him/them who appear/s perfectly to understand the same and has/have signed in my presence.

Accepted

Accepted

ASHOK MOHILEY
Flat No. 3, Block No. 7
Nagar Mahapalika Flats
Hastings Road
(Nyaya Marg) Allahabad-211001
Phone : 3046