

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No.

32 of 1988

APPLICANT (s) Ram Sivram

RESPONDENT(s) Union of India

Particulars to be examined

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 cause 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 ?

Endorsement as to result of Examination

- yes -

- yes -

- yes -

- 11 sets filed.

- yes -

N.A.

N.A.

- yes -

CC 089040 P 932090
4 337460 B 673968
38 48 521= dt 25-5-88.

- yes -

- yes -

- no -

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. Obayya, 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 of because of act/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.

R. B. Burman
MEMBER (A)

Lee
VICE CHAIRMAN.

DATED: NOVEMBER 21, 1992.

(ug)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

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

Ram Sinha

Applicant(s)

Versus

J.O.L

Respondent(s)

Sr. No.	Date	Orders
4	26.X.88	<p>Applicant's Counsel Dr Raksh Kaur Swastava & Joshi Reply not filed by 22-11-88 for reply</p> <p><u>DR</u></p> <p>26/10/88</p>
	22.11.88	<p>DR</p> <p>Mr. V.K. Choudhary Counsel for Respondents is present. As per order of Counsel for respondents, Reply can be filed by 23.1.89.</p> <p><u>DR</u></p> <p>23/11/88</p>
	23.1.89	<p>DR</p> <p>No reply filed. The case is fixed to trial hearing on 23.2.89. In the mean time, reply may be filed.</p>

16/2/89

DR

No reply filed.

DR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(LUCKNOW BENCH)
LUCKNOW.

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

T.A. #8

Date of Decision 19-11-92

Ram Sharanani

Petitioner.

Shri Rakesh Kumar

Advocate for the
Petitioner(s)

VERSUS

Union of India & others

Respondent.

Shri Ashok Maloley

Advocate for the
Respondents

C O R A M

The Hon'ble Mr. Justice U.C. Srivastava, M.C.

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

1. Whether reporter of local papers may be allowed to see the Judgment ?
2. To be referred to the reporter or not ?
3. Whether to be circulated to other benches ?
4. Whether 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

DEFENDANT
RESPONDENT

Union of India & ors

VERSUS

Serial number of order and date	Brief Order, Mentioning Reference if necessary.	How complied with and date of compliance
<u>11/5/89</u>	<p><u>Hon' Mr. K.J. Raman, A.M.</u></p> <p>Shri A. Mohilley 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 25-5-89.</p> <p><i>KJR</i> A.M.</p> <p>(sns)</p>	<p><u>OR</u> In compliance Court's order dt 11-5-89 The rejoinder has been filed so far by the learned counsel for the applicant. Submitted by 24/5</p>
<u>25/5</u>	<p><u>No sitting. Adjourned to 4/8/89 for Hearing.</u></p> <p><i>BOC</i></p>	
<u>4/8/89</u>	<p><u>Hon. Justice K. Nath, V.C.</u></p> <p>The case is wrongly listed before a Single Member dist before a Bench on (9-9-89).</p> <p><i>25/5</i></p> <p><i>VC.</i></p> <p><i>PLZ</i></p>	<p><u>OR</u> In compliance of Court's order dt 11-5-89 no rejoinder filed submitted for hearing 3/8</p> <p><u>OR</u> No rejoinder filed Case is submitted for hearing L M/s</p>

12-3-90

No sitting Adm to 20.3.91.

A/6

P

20.3.91

No Sittings Adm to 22.5.91

J.

23.3.91

No. Sittings Adm to 2.8.91

J.

2.8.91

No Sittings Adm to 21.10.91

J.

OR
No R.A. filed
L
10/1121.10.91

D.R.

counsel for the
applicant is present.
He desires to file
Rejoinder by 29/11/91.

29.11.91

D.R.

Both the parties are
present - applicant
to file Rejoinder by
31/11/92.

ARJN
29/11/91
SO.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(LUCKNOW BENCH)
LUCKNOW.

D.A. NO 32188 199 (L)

~~I.A. NO~~

Date of Decision 19-11-92

Ram Sharanani

Petitioner.

Smt Rakesh Kumar

Advocate for the
Petitioner(s)

V E R S U S

Unnao and others

Respondent.

Smt Ashok Mehra

Advocate for the
Respondents

C O R A M

The Hon'ble Mr. Justice U.C. Bhawar, M.C.

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

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

VICE-CHAIRMAN/MEMBER

1/8 0432/82

28.9.92

No filing of D.M. adjournⁿ

13.11.92

✓

13.11.92

No filing of D. B. adjⁿ

18.11.92

✓

No RA filed

by applicant.

18.11.92

Case not ready

on 19.11.92

S.F.C.

Boe

18

16/11/92

19-11-92

Hon. Mr. Justice U.C. Shrivastava, V.C.
Hon. Mr. K. Obayya, A.M.

Heard the learned 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

354 D

Union of India and others Respondents.

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DATED: LUCKNOW
26-5-1988

Vandiverman
(SIGNATURE OF APPLICANT)

FOR USE IN PUBLICATION'S OFFICE

1. Date of filing _____
2. Registration No. _____

signature
for Registrant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD: CIRCUIT BENCH
LUCKNOW.

APPLICATION NO. 32

OF 1988

(L)

BETWEEN

RAM SHIROMANI APPLICANT.

AND

UNION OF INDIA AND OTHERS RESPONDENTS.

. 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.

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) 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
(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)

(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 The Director of Postal Services, Dehradun Region, (Name & Station) in Dehradun which employed.

(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 Retired Head Sorter, (name & station) in R.M.S. Najibabad, 'SH' Division, Saharanpur employed.

(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 & Mail Service, 'SH' Division, Moradabad (U.P.) employed

(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 Parti- culars 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 parti- culars of office (name and station) in which employed.	Sorting Assistant, Head Post Office Dhampur Distt. 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.)
VIII.(i). Name of respondent	Ram Murti Sharma,
(ii). Name of father/husband	Not known

(iii). Age of respondent Not applicable
(iv). Designation and parti- Sorting Assistant (Mail
culars 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 C/O Superintendent,
of Notice. Railway Mail Service,
'SH' Division, Saharanpur
(U.P.)

3. Particulars of the order This application is
against which the applica- made against the Order
tion is made: dated 7.1.87 passed by
Superintendent, 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 ~~XXXXXX XXXXXXXX~~ in duty sister/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 Nehta-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 officie-1 i.e. R.M.S/2 Najibabad who in

Jasbir Singh

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 and mails meant for Nehtaur Sub Post Office ~~were collected~~ received from various places were collected and put into one Transit Bag and despatched ^{Sub} the same to the Post Office Nehtaur on 2.2.1985
Lies, 2th destination of the mailbag in question.

Sunder Ramwani
(viii). That on 2.1.1985 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)

and the Post Master Dhampur ~~had~~ for many times been found responsible for the cases of lass 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 ~~defe~~ defence within 10 days from the receipt of the Notice. Photostat copy of the said Notice and the statement of imputations of misconduct or misbehaviour is being filed As Annexure No. A-1 to the application.

Dhampur

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

(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 ~~petitioner~~ ^{applicant} 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, I.P.M 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 L.S.G 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

Sundar Singh

.12.

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 12.2.1987 made a departmental appeal through Proper Channel to the Director Postal 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.

S. M. Shrivastava

(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

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

7. Details of the remedies exhausted- The applicant declares that he has 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 filed or pending in any court. The applicant further declares that he had not 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 which too has been rejected by him vide Annexure No. A-7.

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

(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 the relief is being sought.

(a). Because the Respondents no. 2 and 3 must have based their orders on sound reasoning and ~~not~~ 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

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~~ whose hands the bag in question was passed on and in any case under the relevant Rules of Post Office Manual the insured letters 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 reasonable ness and are against the principles of natural justice rendering the same of no legal consequence, arbit-rary, illegal erroneous, perverse and void ab-initio are ~~un~~liable to be declared as such.

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

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 and 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.

.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 applicant against the respondents.

10. Interim Order, Pending final decision on the application if any, prayed for. In the application the applicant seeks issuance of the following Interim Relief : -

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

.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 *340- 4089046; B7/- 13
B21- 38337460; B1/- 48023968*

Order(s).

(b). Name of the issuing Post Office.

*HighCourt Branch
PostOffice Lucknow*

(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 Sorder 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. Vakalathnama.

V E R I F I C A T I O N.

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 9th to 11th and 9th and 10th 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

Annexure NO A-1

12/5
5.12.85

GOVERNMENT OF INDIA, DEPARTMENT OF POSTS
OFFICE OF THE SUPERINTENDENT OF 1ST DIVISION, SAHARANPUR

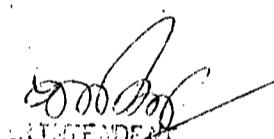
Ref. No. K-3/49/ECT/184/85 at Saharanpur, the 5/12/1985

Shri Ram Siromani S/o. An. No. 11111111
Lakson is hereby informed that it is proposed to
take action against him under Rule 10 of CCA (CCA) Rules 1965, A
Statement of Allegations of misconduct or misbehaviour on which the
action is proposed to be taken is furnished as enclosed.

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

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

The receipt of this memorandum should be acknowledged
by Shri Ram Siromani A.T. Encl. HNO/SAC. Lakson


SUPERINTENDENT
H.N.S. 1ST DIVISION
SAHARANPUR-247001

Copy to:

1. Shri Ram Siromani, S.A./S.C./D.P./SAC RRS

2. 1ST DIVISION,
2. & H.N.S./SAC Lakson, with one spare copy which
should be delivered to the official concerned under escort,
with date. The same should be returned to this office without
delay.

4. To The E.O.C., D.O. Saharanpur- For WR & Punishment Re. action.

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

7. Office copy and stamp.

S.KUTAR/100

photo
True/Copy attested
K. Narasimha Adu
25-8-88

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

Shri Ram Shircemi SA while working at Najibabad RMS/1 dated 1.2.85 as Mail Opener failed to keep the Regd. bag for Naiteur 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" which caused in abstraction of 4 Insured letter No. 876 Kendwall and Inc. 627 Calcutta, Inc. 61 Bareilly (Bhopal) Inc. 853 Delhi C.P.O.

Thus the said Shri Ram Shircemi 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 CCG (Conditions) Rules 1964.


 Superintendent,
 I.C.C. 9th Division,
 Bhopal, M.P.

S. Shircemi

True Photo copy attested
 Superintendent
 25-5-88

In the Central Administrative Tribunal Allahabad
Circuit Bench Lucknow
Application No. 071988

Between

Ram Shironai _____ Applicant

Received

ANNEXURE NO. A-2

गोपनीय १०७-४६ को नियमित वासना वाले में श्री संगारवाला
श्री गिरिष्ठाल ३०३० वे० जै शम्भरियोग्यार्थी को देखने देते हैं वकारी हैं,
देखते हैं कि काम वाले लोगी सुनती रहीं। वाले पर तभी गई
है कोरी ए अभि कामर मेल देता ने सुनती थी कोरी ए
कोरी अनीत इस नियम नदेवार के काम देता वाला रहे
हैं। नियम नदेवार के काम देता वाला रहे हैं।

20 August 3

1930 April 22

(Sunder) Bhawan

True Photo Copy attested
✓ Reinvaldia Adm
25-5-88

in the Central Administrative Tribunal Allahabad,
Circuit Bench Lucknow
Application No. of 1988

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

ANNEXURE NO. A-3

BEFORE
BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD: CIRCUIT BENCH LUCKNOW.

APPLICATION NO.

OF 1988.

Ram Shiromani.

.....Applicant.

Versus

Union of India and othersRespondents.

ANNEXURE NO. A - 4

To

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

Subject:- Alleged non-receipt of 4 Ins. letters
by SPM Nahtaun, 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 my 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

.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 VIII 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/Supervisor 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

Amritsar

.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

Subhedar

.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 bag were delivered or d epatch-hed 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.

Subdiversion

.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/l 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/l 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/l 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/l 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 IRM 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.

Chintamani

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/EU-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 w
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 Shiromani 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. 1.2.85in his
custody safely as during his custody regd.

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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 I RM 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 :-

Ans
I have/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/l dated 1.2.85 was secretly fastened, proper sealed

.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 $4\frac{1}{2}$ " 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 found, when received at Nehtaur. Therefore, the abstraction of four Insured

Unpublished

.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/l 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 "ajibabad RMS/l 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

5.

(conduct) Rules, 1964.

Therefore 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

(M.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 Shaharanpur-for necessary action.
- 5-6. The Steno to S.R.M. 'SH' Dn. for C.R. & memo of service of the official.
7. Staff II for PF S. Copy for VR&PR
- 9-10. O/C & Spare.

.....

TRUE COPY

Shaharanpur Adm
25-1-88

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD : CIRCUIT BENCH LUCKNOW.

APPLICATION NO.

OF 1988

Ram Shabromani.

....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~~ recovery of Rs 3300/- of 10s
case of 4 insured letters.

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

Shabromani

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

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.2.

Respected Sir,

Most humbly and respectfully your humble applicant Ram Shrimani 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 charged sheeted 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 4½" which caused in abstraction of 4 insured letter Nos. 878/Kandvali 627/Calcutta, 61, Bareilly (Bhopal and 853 Delhi G.P.O..

Shrimani
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 my 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.

.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.

Shri Ram Singh

- (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.

.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 maagainst 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). I RM 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 was 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

Subhash Kumar

.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 challenge and further he enclosed it is 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.

R. N. Varadarajan
28-5-88

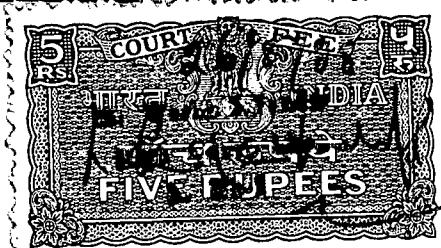
ब अदालत श्रीमान्

21st Central Administrative Tribunal
Allahabad Circuit, Bench महोदय

[वादी] अपीलान्ट

श्री

प्रतिवादी [रेस्पाडेन्ट]



रुपयी (अपीलान्ट)

Ram S. Soni

बनाम प्रतिवादी (रेस्पाडेन्ट)
Union of India and others

नं० मुकद्दमा

सन्

पेशी की तात्

१९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री Rakash Kumar Sawant

Auradh Bar Association High Court Bench

Chelar

कमीत

महोदय

एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ
 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 रूपया 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 रूपया जमा करें या हमारी विपक्षी
 (फरीकसानी) का दाखिल किया हुआ रूपया 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 हूँ कि
 मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा अगर मुकद्दमा अदम
 पैरवी 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 ।

Jambhironam

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १९

ई०

स्वीकृत

Accepted
Rakash Kumar Sawant
Advocate
25-5-2008



In the Central Administrative Tribunal, Circuit Bench,
Lücknow.

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 _____
Signature _____

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 Verelley (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. ~~This~~

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.

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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-26 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 cut 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, ~~the~~ sorting Assistant, Najibabad, RMS/1 dated 1.2.1985 was the only suspect to be responsible for the loss of

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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

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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.

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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 Majibabad 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 less 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.

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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 ~~Supt.~~ 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.

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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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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(l)(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(i)(c) of the petition are not admitted. It is submitted

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that a registered bag received intact by the petitioner was found cut 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 expat~~ 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 petition are not admitted. It is submitted that the contention of the petitioner that the service carrier of the applicant is unblamished is not based on facts as he was involved in other loss and abstraction cases at Najibabad R.M.S..

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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 recipient 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

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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~~ 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

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.13.

verify and declare that the contents of para nos.

... and 2

of this affidavit are true to my personal knowledge;
those of paras nos... 3 to 10

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.

High Court
Deponent.

Gftkar Husain Jaddi Basant Singh
I, ~~R.D. Yadav~~, clerk to Sri ~~Shrik Mohiley~~,
(Q.C.C. Civil) ~~Advocate~~ ~~Salarampur~~
~~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.

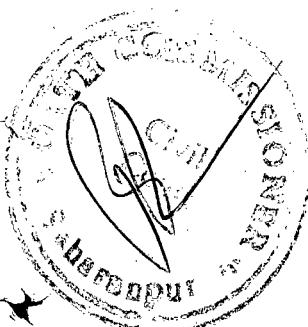
Clerk.

Musey Jaddi
Clerk
on Basant Singh
P.R.C.
6/12

Exh. A
Sri D.S. Mehra Deponent
Solemnly affirmed before me on
this 5 day of December, 1988 at 3.25 a.m./p.m.
by the deponent who is identified by the Gftkar Husain
aforesaid clerk.

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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.

State Election Commission
Haryana India
5/12/86

State Election
Commissioner

5/12/86

(RAJ PAL SINGH)

Advocate

(Civil Court Lawyer)

५४

आज दिनांक ९-७-८६ को छुट्टी नियमित नजीलालाद द्वारा
निम्नलिखित बुक्सेन्ट्रस दिया गया -

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1. शील, काड़, लेवल, नजीलालाद में ३० ली०, दिन १-२-८५ द्वारा
वन्द किये गये अक छैले का।
2. शील, लेवल, काड़, नजीलालाद में ३० ली०, दिन १-२-८५ द्वारा
वन्द किये गये अन्नीहुत छैले का।
3. शील, काड़, लेवल धास पुर दिन २-२-८५ द्वारा वन्द, किये
गये ३० ली० छैले का।
4. शी. कैग नजीलालाद में ३० ली०, दिन १-२-८५ द्वारा
वन्द अक छैले का।
5. शी. कैग नजीलालाद में ३० ली०, दिन १-२-८५ द्वारा
वन्द किये गये अन्नीहुत छैले का।
6. शी. कैग धास पुर दिन २-२-८५ द्वारा वन्द, किये गये
४८ छैले का।
7. छुरली

Normal Name

8/ Assh
RMS Al-Bad
alt 9-7-86

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altered

लिखनक
राजीवन ४४
रो. डा. व्य० 'बहरुद्दीन' बख्तार
सहारनपुर-२४७००१

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In THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH Lko.
OA. NO. 32 (L) / 88 A/3

Ram Shrivastav

Petitioner/Applicant

Versus

Union of India and others

Respondents

APPLICATION FOR ADJOURNMENT

Sir,

I am representing the applicant in the aforesaid 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.

R.K. Srivastava Adv

Inclosure Dated
18/11/92

[Rakesh Kumar Srivastava]
Advocate

Counsel for the Applicant

In the Central Administrative Tribunal Allahabad Bench

Regd. No. 32 of 1988 (4)
Date of filing 8/10/2000
Petitioner/s. } Respondent/s Opp. Parties.
Plaintiff/s. } Defendant/s
Decree-holder/s. Complainant/s, Vs. Judgment-Debtor/s Accused.

I/We D.S. Mehra, Subdt. R.M.S. SH. Division
Nos. Saharanpur
the
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 _____
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 unaquainted 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