

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE T.A. No. 129/92OA No 790/88NAME OF THE PARTIES Mamgal Prasad

Applicant

Versus

U.O.

Respondent

Part A, B & C

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CERTIFICATE

Certified that no further action is required to taken and that the case is fit for consignment to the record room (decided)

Dated. 19-12-16

Counter Signed.....

Man
Signature of the
Dealing Assistant

Section Officer / In charge

90/7

Recovery from my/... of ... by ...

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. ⁷⁹⁰~~789~~ of 1988

APPLICANT (s) Mangal Prasad

RESPONDENT(s) Chairman, Postal Board, New Delhi

& another

Particulars to be examined	Endorsement as to result of Examination
1. Is the appeal competent ?	Yes
2. (a) Is the application in the prescribed form ?	Yes
(b) Is the application in paper book form ?	Yes
(c) Have six complete sets of the application been filed ?	4 sets filed
3. (a) Is the appeal in time ?	No
(b) If not, by how many days it is beyond time ?	About 9 months
(c) Has sufficient case for not making the application in time, been filed ?	—
4. Has the document of authorisation, Vakalat-nama been filed ?	Yes
5. Is the application accompanied by B-D /Postal-Order for Rs. 50/-	Yes, No. $\frac{20}{6}$ 227206 2226 $\frac{5}{80}$ for 3 set
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?	Yes
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Yes
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Yes

(B)

ORDER SHEET
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

.....*of*.....N^o.....*290*.....of 198*0*

.....Vs.....

Sl.No. of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
	<i>22.07.01</i>	<i>ls</i> <i>an order appears for</i> <i>rept. Consider any</i> <i>in filed by 7.11.00</i> <i>D.T</i> <i>Q/R</i> <i>Sum A 2nd 4-10-00</i> <i>C.A - 5th 1st 1st 1st 1st 1st</i> <i>4-10-00</i>	
	<i>7.11.01</i>	<i>ls</i> <i>an order appears for</i> <i>rept. Consider any</i> <i>in filed by 13.11.01</i> <i>4-10-00</i>	
	<i>13.11.01</i>	<i>ls</i> <i>an order appears for</i> <i>rept. Consider any</i> <i>in filed by 7.2.02</i> <i>4-10-00</i>	

T. A. 129/92 T. L

(3)

22.6.92
D.R.

Register the case as T.A.

This case has been received
after transfer to this Bench
from CAT Appd.

Inform the counsels
for both the parties. Case
is listed for hearing on
20/8/92.

Noted
AE Adv.
24/8/92
CA.

O R
Notices issued
on 26-5-92
W

IN THE GENERAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

C.A. NO

195 (L)

T.A. NO

Date of Decision

PETITIONER,

Advocate for the Petitioner(S)

VERSUS

RESPONDENT,

Advocate for the RESPONDENT(S)

CORAM

The Hon'ble. Mr.

The Hon'ble. Mr.

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

Vice-Chairman/Member

CENTRAL ADMINISTRATIVE TRIBUNAL, DELHI

DELHI

P...No. 129/92

(U... No. 700/86)

Mangal Prasad

Applicant

versus

Union of India & others

Respondents.

Shri M.A. Javari

Counsel for Applicant.

Shri K.C. Sinha

Counsel for Respondents.

Court.

Hon. Mr. Justice J.C. Srivastava, V.C.

Hon. Mr. K. Jhayera, Jm. Member.

(Hon. Mr. Justice J.C. Srivastava, V.C.)

The applicant was working as Deputy Clerk in the Savings Bank Branch of State Bank of India and was placed under suspension on 28.11.86 and he was reinstated on 8.7.1977. The applicant was charged under rule 16 of the Central Civil Service (Classification, Control & Appeals) Rules, 1965, for violating the provisions of rule 442(1) read with rule 140(1) of the Postal Telegraph Manual Volume VI Part II and rule 3(ii) and rule 3(iii) of the Central Civil Service (Conduct & Discipline) Rules, 1964.

2. The charge sheet precisely was that regarding the fraudulent withdrawal of Rs. 1.00 was lodged and a criminal case was registered against the applicant including other persons and the original documents on the basis of which the said charge sheet was issued, were lying in the custody of the court, and the said criminal

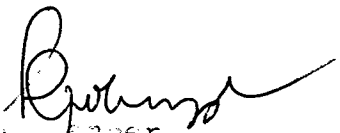
by

case was lying pending and as such the charge sheet was dropped till the finalisation of the court case vide memo dated 10.12.1982. After finalisation of court case the petitioner was again charge sheeted on 7.1.84, against which the petitioner submitted a reply stating that the reply of the charge sheet submitted earlier may be referred in its reply. After perusal of reply and taking into consideration the facts of the case, a penalty of Rs 5,000/- was imposed on the applicant and the period of suspension from 23.7.76 to 8.7.77 was ordered to be treated as leave due vide order dated 16.1.1984. This is the order which is under challenge.

5. The respondents were within their right as ~~the~~ all the charges of negligence of performing duty were proved, and they were within their right to levy the amount of Rs 5,000/- as penalty which they stated that it was liability of the applicant but so far as treating the entire suspension period as leave due, is concerned, there is no denial that no notice was given to the applicant. Accordingly, this application deserves to be allowed, so far as this period is concerned. The application is partly allowed and the last part of the order dated 16.1.1984 by which the applicant's period of suspension has been treated to be leave due is quashed and the respondents are directed to decide this question after hearing the applicant.

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4. The application is in accordance with the above terms, with no other conditions.


John

John



John

John

John

Application U/s 19 of Administrative Tribunal Act, 1985

Filed on 29-5-1986

Page No. 789 of 80

Signature of P.L.(5)

In The Central Administrative Tribunal, Allahabad-1

Between

Mangal Prasad

.....

Applicant

I W D T R

(1) Chairman Postal
Board New Delhi

.....

Respondents

(2) DPS Lucknow

I W D T R

Sl. No.	Annexure Marked	Particulars of Documents	Page No.
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For Applicant

SHYAM SUNDAR

Advocate

1/1, Naganagar

(Allahabad)

Advocate

Details of Application

Particulars of the Applicant :-

- (i) Name of the Applicant HANFAL PRASAD
- (ii) Father's Name Shri Debi Prasad
- (iii) Designation & Office in which employed SPM Jahangirabad Raj Dist. Barabanki
- (iv) Office Address SPM Jahangirabad Raj Dist. Barabanki
- (v) Address for service Vill. Mandwa, P.O. J.B. Raj Dist. Barabanki
- of all notices

2- Particulars of the Respondents :-

- (i) Name &/Or Designation (1) Chairman Postal Board, New Delhi
- (ii) Official Address (2) DPO Lucknow
- (iii) Address for service of all notices

3- Particulars of the order against which application is made :-

- (i) Order No. P/SB-5/76-77 RDI/10p-17/84/13 3/15/86-VigIII & 2/227/86-Vig. III
- (ii) Date 16-1-84 a.p. 15 31-5-84 a.p. 22 26-8-86 & 20-8-86 a.p. 47 & 54
- (iii) Passed by Suptt. Posts Barabanki Dps Lucknow Chairman Postal Board New Delhi
- (iv) Subject in brief

Recovery from Pay of official of duty
Pay for the period of suspension

4- Jurisdiction of the Tribunal

The applicant declares that the subject matter of the order against which he wants redressal is within the Jurisdiction of the Tribunal.

5- Limitation

The applicant further declares that the application is within the limitation prescribed in section 21 of the Administrative Tribunal Act, 1985.

6- Facts of the case

The facts of the case are given below :-

Recovery from Pay of official of duty
Pay for the period of suspension

27/6/88
27/6/88

27/6/88

Administrative Tribunal

Address: Lucknow

Date: 27/6/88

20-7-88

Date of Post

27-6-88

(1) Place of Incidence .. Saffardgenj sub Post Office to Ram Sanehi Ghat sub Post Office both in Dist. Barabanki

(b0) Dates of Incidence .. 10.2.76 & 14.2.76

(c) Amount of Fraudulent withdrawal .. Rs. 5950/-

(d) The prescribed application form No. SB 10(b) is required to be filled in when a Savings Bank A/C standing at one post office is sought to be transferred to another post office.

(e) The procedure for effecting transfer of an A/C from one post office to another are detailed in rules 439 to 442 of P.T. Manual Vol. VI Part II. In the instant case Rule 442 is directly concerned.

(f) Period during which the applicant had been under suspension .. 23.11.76 to 8.7.77

(g) Abbreviations used :-

SB A/C = Savings Bank Account

SPH = Sub Post Master

S.O. = Sub Post Office

P.O. = Head Post Office

P.A. = Postal Assistant i.e. a clerk in a post office

L.C. = Ledger Clerk

During the period in question (10.2.1976) the applicant worked as the L.C. III in the Savings Bank Branch of Barabanki H.O. He was responsible for the maintenance & upkeep of the ledger of SB A/Cs standing at Saffardgenj S.O. Another L.C. No. IV was responsible for maintaining the Ledger of Ram Sanehi Ghat S.O. One Gur Prasad holder of SB A/C No. 60215 standing at Saffardgenj S.O. with a Balance of Rs. 5951/70 at his credit submitted an application in form S. R. 10(b) at Ram Sanehi Ghat S.O. seeking transfer of his said A/C from Saffardgenj S.O. to Ram Sanehi Ghat S.O. The S.P.M. Ram Sanehi Ghat compared the Balance at the credit of the A/C holder shown in his application SB 10(b) with that shown in the Pass Book at that time. He found the balance correct and confirmed the same to the A/C holder as per his request. The A/C holder also got himself identified by One Shri A.R. Kidwai a local Advocate of R.S. Ghat S.O. Shri Kidwai also endorsed the Identification certificate on the application in form SB 10(b). The SPH R.S. Ghat sent

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- 4 -

fully satisfied with regard to the genuineness of the transfer application and he allotted a new number as 231770, noted it on the application SB - 10(b) and sent it to Barabanki H.C. where it was received by L.C. IV. L.C. IV also examined the ~~Pass Book~~ application for the transfer of A/C felt satisfied and transferred it to the applicant (the then L.C. III) for effecting transfer of the A/C. The applicant found that the signature of the A/C holder had already been attested by a responsible man of that locality and that the Balance of the A/C as per his ledger was Rs.6268/45 while that shown in application form SB - 10(b) it was only Rs.5964/70 the applicant did not raise any objection because the interest for the year 1974-75 which exactly amounted to the difference between the two Balances, had apparently not been added to the A/C in the Pass Book. The applicant accordingly prepared a transfer journal and sending its copy to all concerned completed the procedure of Transfer. In this way the first chapter of the case is over. The next chapter of the case begins on 17-2-1976 when a sum of Rs.5950/- was fraudulently withdrawn from the said A/C transferred to R.S. that S.O. In this phase the applicant is not the least concerned. Nevertheless the learned Subdt Posts Barabanki (in short Subdt.) placed the applicant under suspension on 23-11-76 which was revoked on 8-7-77. He also served the applicant with a charge sheet under Rule 16 of CCS(CCA) Rules vide copy at inn. 1-1 on Pages 10 to 11. The applicant submitted his defence vide copy at inn. 1-2 on Pages 12 to 13. He was awarded the punishment of Recovery of Rs 500/- as also his period of suspension was ordered to be treated as leave due. The Appellate authority upheld the punishment order with the simple modification that he ordered the period of suspension

Harpreet Singh

would be treated as duty for all purposes except pay which should be restricted to subsistence allowance already drawn. Being aggrieved by the appellate order the applicant submitted a further petition to the Chairman Postal Board, New Delhi on 4.9.84 vide copy at Ann. 4-5 on Pages 45 to 46. The learned Chairman also upheld the appellate order vide his No.3/15/86-Vig.III dated 26.8.86 and No.2/227/86-Vig.III dated 20.8.86 which were received by the applicant in October 1986 and are appended as Annexures marked 1-2 on Pages 47 & 48. The applicant then submitted a Memorial to the Hon'ble the president of India vide copy at Ann. 1-7 on pages 49-51 as the Memorial remained unattended by the Hon'ble President of India hence this application is being submitted before the Hon'ble Tribunal.

- (ii) The charges against the applicant are ..
- (a) that he failed to notice that the S.M.R.S.Ghat S.C. had already transferred the GB A/C No.30215 standing at Sefferganj S.C.without obtaining the previous approval of Head Postmaster Barabanki.
 - (b) that the application for transfer of A/C was not accompanied by original Pass Book which the applicant failed to challenge and to call for the Pass Book.
 - (c) for failure to compare the signature of the A/C holder obtaining on the transfer application form with that available in his office in the Specimens signature Register.

The learned Supdt. has concluded that but for the aforesaid failures on the part of the applicant the fraudulent withdrawal of Rs.3550/- made from R.S.Ghat S.C. would have been averted. But now it would have been averted is an Important question which neither the Supdt., the P.O. nor the Chairman Postal Board has answered. Although ..

Yogesh Chandra

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satisfactory reply of this question is a must to uphold the punishment of Recoveries per Rules 106, 107, 204 & 204A of PET Manual Vol. III and as per instructions of D.G. PET contained in his No.114/176/78-Disc II dated 13-2-81 appearing as G.I. Instruction below Rule 11 of of CCS(CCA) Rules and reproduced at page 29-30 of Ann. 1-5 of this application.

(iv) As far as the first two charges under para 6(iii) above are concerned the applicant begs to state that he did not insist upon calling the Pass Book because the Balance of the Pass Book tallied with that of the ledger. The only difference between the two was of Rs.303/75 less of Rs.30 which was the amount of Interest earned by the A/C holder during the year 1974-75 and had not been added in his Pass Book. The simple idea of calling the Pass Book before permitting the Transfer of A/C from One office to another is to be sure that the entries of the Pass Book do correspond with those of the ledger entries. Since the Balances of the two tallied with each other the necessity of calling the Pass Book was annulled. The Rule was thus complied with in spirit but not literally. The literal compliance of a rule amounts to "work to Rule" which even the Dept. does not desire or encourage.

(v) As far as the third charge is concerned, the applicant begs to state that suppose the applicant had compared the signature and it had actually differed even in that case the transfer of A/C would not have been disallowed. Because in such circumstances as per DG's orders contained in his No.5/10/74-Disc II dated 10-5-75 reproduced on pages 31-32 of Ann. 1-5 of this application the transfer of A/C is permissible if the signature is not attested. In the instant case too

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Shri A.B. Fildvai an Advocate of R.S. Chat had attested the signature of Shri Gur Prasad and this attestation was accepted by the SH R.S. Chat as such any objection raised by the applicant on the basis of there being a difference in signature would have been totally unwarranted as also it would have been against rule.

(vi) The applicant has acted quite against rule and that is why the CBI had taken him to be a state witness in the Criminal case prosecuted against the SH R.S. Chat and others. The learned Supdt without controverting the aforesaid two important points of defence offered by the applicant ~~the prosecution have~~ passed & also upheld the punishment order. The order passed by the learned Chairman Postal Board at Ann. 11. 1 on Pages 47 to 59 is completely silent on the question how the aversion of fraud possible on 17-2-76 presuming for the arguments sake that all the three charges framed against the applicant are accepted as proved.

(vii) The third important issue requiring adjudication by the Hon'ble Tribunal is that the applicant was placed under suspension from 23-11-76 to 8-7-77 but he has not been allowed full pay for this period of suspension on the ground that the disciplinary proceedings ended in punishment for the award of/recovery. The G.I. orders on the issue contained in G.I. Deptt. of Personnel & Mngt. C.M. no. 11012/15/85 Wstt(A) dated 31-12-85 (appearing on Page 395 of Swamy's compilation of Manual of Disciplinary Proceedings) are to treat the period of suspension as full fledged duty if it is followed by an award of minor punishment. As the said orders were issued in Dec. 1985 the chairman has decided that they would not apply to a case decided in Jan'y. 1981. The rules cited above are not new rules they have only been re-affirmed. The

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The rules existing prior to Dec. 1985 never warranted a Govt. Servant to be placed under suspension who was not likely to be removed from service or who was likely to be awarded a punishment equivalent to removal. In the guiding principles for placing a Govt. Servant under Suspension circulated under G.I., WH letter No. 43/56/64-VD dated 22-10-64 appearing as G.I. Instruction No. 1 below Rule 10 of CCS(CCA) Rules the Govt of India have specified circumstances under which suspension should be resorted to. In the ~~instant~~ instant case where a rule 16 charge-sheet i.e. a charge sheet for awarding a minor punishment was served in the very beginning it is quite clear that the suspension order itself was unwarranted and was against rule hence it deserves to be quashed.

7. Reliefs Sought for :- In view of the facts narrated in para 6 above the applicant prays for the following reliefs :-

(i) The punishment order dated 16-1-84 passed by the learned Supdt., the appellate order dated 31-3-84 passed by the learned DPS Lucknow and those passed by the learned Chairman Postal Board on 20 & 26-8-86 may all be set aside.

(ii) The amt. of Rs. 500/- recovered from the applicant may be got refunded to him with interest.

(iii) The suspension period may be ordered to be treated as duty for all purposes including grant of pay & allowance and the pay and allowances for the suspension period actually becoming due and those actually drawn may also be directed to be paid with interest and

(iv) he may be paid the cost of this suit.

R. L. Singh

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8- Interim order, if prayed for— NIL

9- Details of the remedies exhausted

The applicant declares that he has availed of all the remedies available to him under relevant service rules—

He submitted an appeal to DPS Lucknow who rejected it on 31-5-84. He then submitted a petition to the Chairman Postal Board on New Delhi which too was rejected on 20-8-86 & 26-8-86. He then submitted a memorial to The Hon'ble the President of India on 6-1-87 which remained unattended hence he is submitting this application.

10- Matter not pending with any other court etc. :-

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law, or any other authority or any other bench of the Tribunal.

11- Particulars of the Postal Order in respect of the application fee :-

- (i) No. of I. P. O. DD 4/227286
- (ii) Name of Issuing P. O. Allahabad F.P.O.
- (iii) Date 26-5-88
- (iv) P. O. at which payable Allahabad H. P. O.

12- Index- An Index of the documents to be relied upon is enclosed with each copy of this application

13- List of enclosures :-

- (i) Vakalatnama
- (ii) one I. P. O. for Rs. 50/-
- (iii) eight documents to be relied upon

In Verification

I, Mangal Prasad S/O Shri Debi Prasad aged 50

years R/O Vill. Mandwa P.O. J.B. Raj and working as Srm J.B. Raj hereby
Dist. Barabanki Dist. Barabanki.
verify that the contents from 1 to 13 are true to my personal knowledge & belief and that I have not suppressed any material facts.

Place- Allahabad

Date 26/6/1988.

To

The Registrar, Central Administrative Tribunal,
Allahabad-211001

Mangal Prasad
Signature of applicant

K. TEWARI
Advocate
54, P. N. Chatterjee Nagar
(K. Tewari)
Allahabad-16

Annexure No. A-

STATEMENT OF IMPUTATION OF NEGLIGENCE AGAINST
SRI MANGAL PRASAD S.P.M. BARABANKI J.B. AND BARABANKI.

Shri Mangal Prasad S.P.M. J.B. and Barabanki while working as Ledger Clerk Barabanki H.C. on 13-2-1976 received SB-10(b) in respect of Saffarganj SB A/C No. 60215 for transferring this account to Ram Sanahi Chat P.O. through S.P.M. R.S. Chat P.C. The aforesaid account was already transferred by the S.P.M. R.S. Chat and a new account number 231771 was noted on SB-10(b). Sri Mangal Prasad failed to notice that the above account was transferred by S.P.M.R.S. Chat without getting its balance verified from H.O. and without obtaining permission of H.C. in this regard. The SB-10(b) mentioned above was not accompanied by the relevant pass book. The said Sri Mangal Prasad failed to challenge it and to call for pass book for verification of balance. He also failed to compare the signature of so called depositor available on SB-10(b) with that on record on the pass book that the specimen signature was not traceable while specimen signature was available at Barabanki H.O.. The said Sri Mangal Prasad did not trace it but at the time of transferring the account to R.S. Chat otherwise the difference in signature of depositor could have been detected and subsequent fraudulent withdrawal of

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-2-

Rs. 5950/- from this account dated 17-2-1976 would have been averted. Moreover in P.B.10(b) the balance was noted as Rs. 5964.70 paise, Sri Mangal Prasad transferred the account with a balance of Rs. 6268.45 paise which was the ledger balance. The said Sri Mangal Prasad therefore failed to call for the pass book to rectify the difference in balance. The said Sri Mangal Prasad also failed to send intimation of transfer of account to Safdarganj, P.O. on 13-2-1976. Thus the said Sri Mangal Prasad while working as Ledger Clerk Barabanki P.O. failed to follow the prescribed procedure in transferring Safdarganj Barabanki A/c No. 60215 to N.W. Chat P.O. and violated the provisions of rule 442(1) read with rule 40 (i) of P & T (Man. Vol. VI Part II)

The said Sri Mangal Prasad also failed to maintain devotion to duty and did an act unbecoming of Govt. servant and thereby violated the provisions of rule 3 (ii) and 3 (iii) of C.C.S. (Conduct) Rules 1964.

Sd/-
Supt. of Post Offices,
Barabanki Division, Barabanki.
.225 001.

TRUE COPY

[Handwritten signature]
(Sd/-) 13-2-1976

-12-
H. M. A-2

From:

Mangal Prasad,
Sub Postmaster -
Jahangirabad Raj,
Barabanki.

To,

The Superintendent of Post Offices,
Barabanki Division,
Barabanki.

Subject: Disciplinary proceeding under rule 16 of
C.C.S. (C.C.A.) Rule 1965 against
Sri Mangal Prasad the then Ledger Clerk
III, Barabanki Head Post Office.

Reference D.O.No. - F/S.B.-5/76-77, dated 23.11.1976.

Sir,

With due respect, I beg to say the following
for your kind consideration and sympathetic orders.

- 1- That I (Mangal Prasad) was working at
Barabanki H.O. as L.C. III on 13-2-1976.
One SBA/C No.-60215 standing at Safadarganj
P.O. was transferred to Ram Sanahi Ghat while
I was working as Ledger Clerk SO Group.
This A/C was received by Ledger clerk IV,
S.P.M. Ram Sanahi Ghat, completing all the
formalities on S.B. 10(b), submitted to
Barabanki H.O. on the basis of witness, the
S.P.M. R.S. Ghat has accepted the signature
of depositor Sri Gur Prasad.

(Contd...2...)

-2-

As such there was no doubt about the difference in specimen Signature of depositor of depositor. I being the Ledger clerk transferr of the account from Safdar Ganj, P.O. to R.S. Ghat P.O. preparing the local transfer journal and handover to Asstt. Postmaster for onward transmission after necessary ~~see~~ scrutiny and signature. So for concerned the Specimen Signature of the depositor which was kept by the Sri Shri Krishna Srivastava the then Postmaster Barabanki H.O. in this circumstances I could not verify.

2- That charge framed against me that I failed to notice that the account was transferred by Sub Postmaster Ramsanehi Ghat without getting its balance verified from Barabanki; H.O. and without obtaining permission of Barabanki H.O. is baseless. When the account was received I prepared the local transfer journal and handedover to the Asstt. Postmaster which was accepted, A.P.M.(SB) in his written statement has accepted that the local transfer journal was sent to SBCO for necessary action.

3- That the account was already transferred from safdar Ganj P.O. to R.S.Ghat allotting the new No. 231-771 by the Sub Postmaster R.S.Ghat. It is also said that the withdrawal for Rs. 5950/- was made by the Sub Postmaster ,R.S. Ghat on the proper identification. The difference in Specimen Signature is rectified only on the basis of identification on which, has been made by the S.P.M. R.S.Ghat and he may sole responsible for

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-3-

fraudulent withdrawal.

4. That I was ledger clerk., I was to transfer the account taking the Ledger balance and not the balance noted on S.B. 10(b). My duty was to transfer the account and not to verify the reality of the withdrawal. It was the duty of the Ledger Clerk who dealt the R.S.Ghat P.O. as well as the Sub Post Master R.S.Ghat.

5. That the case was referred to C.B.I. for enquiry in which I have been exonerated from all the charges. It is also said that C.B.I. has nominated me Government Witness, as the case is under Court of Law.

6- That Sri S.B. Srivastava the, then learned Superintendent of Post Offices Barabanki placed me under suspension being prejudice to me.

The case was not such, as I may be placed under suspension.

7- That In my application dated 27-7-1977 , 1.2.1978 and 18-4-1978, I requested for certain documents which were neither given to me nor shown to prepare the difference. It clearly indicates that the Department wants to press me unnecessary.

8- That I pray your kind honour to see my case with sympathetic view and exonerate me from all charges and suspension period may kindly be treated duty for all purposes.

v/j.

DU 17/8/82

TRUE COPY

R. S. Ghat
P. O. Barabanki

- 15 -

Annexure No. A-Indian P & T Department.

C/o The Supdt. of Post Offices Barabanki dn.225 001.

Memo No.: F/SB-5/76-77, dated: at BBK the, 316-1-84

Shri Mangal Prasad SPM JB Raj (BBK) was informed vide this office memo of even no. dtd. 7/1/1984, that it was proposed to take action against him under rule 16 of CC² (CCA) rules, 1965 on the allegations reproduced below :-

" Sri Mangal Prasad S.P.M. JB Raj (BBK) while working as ledger clerk BBK H.O. on 13-2-1976 received SB-10(b) in respect of Safdarganj SB A/C No. 60215 for transferring this account to Ram Sanehighat P.C. through S.P.M. R.S. Ghat P.C. Theaforesaid ~~o/x~~ a/c was already transferred by the S.P.M. R.S. Ghat and a new a/c number 231771 was noted on SB-10(b). Shri Mangal Prasad failed to notice that the above a/c was transferred by S.P.M. R.S. Ghat without getting its balance verified from H.O. and without obtaining permission of H.O. in this regard. The SB-10(b) mentioned above was not accompanied by the relevant pass book. The said Sri Mangal Prasad failed to challenge it and to call for pass book for verification of balance. He also failed to compute the signature of so called

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depositor available on SB-10(b) with that on record on the plea of that specimen signature was not traceable, while specimen signature was available at BBK H.O. The said Sri Mangal Pd. did not trace it but at the time of transferring the a/c to A-S Ghat otherwise the difference in signature of depositor could have been detected, and subsequent fraudulent w/d Rs. 5950/- from this account dated 17-2-76 would have been averted. Moreover in SB 10(b) the balance was noted as Rs. 5964/- & 70 paise. Sri Mangal Pd. transferred the a/c with a balance of Rs. 6268.45 which was the ledger balance. The said Sri Mangal Prasad therefore failed to call for the pass book to rectify the difference in balance. The said Sri Mangal Prasad also failed to send intimation of transfer of account to Safdarganj P.D. On 13-2-1976. Thus said Sri Mangal Pd. while working as Ledger clerk Barabanki H.O. failed to follow the prescribed procedure, in transferring Safdarganj (BBK) A/c No. 60215 to A-S Ghat P.O. and violated the provision of rule 442(1) read with rule 440 (i) of P & T Man. Vol. VII part-II.

The said Sri Mangal Prasad also failed to maintain devotion to duty and did an act unbecoming of Government servant and thereby violated the provision of rule 3 (ii) and 3 (iii) of CCS (Conduct) rules, 1964."

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The similar charge-sheet originally issued under Memo No. even, dated 20-6-77 of which defence was submitted by the official on 17-9-1982 which could not be decided being the same case was under trial in the court and therefore it was dropped vide memo no. even dated, 10-12-1982 till finalisation of courtcase. The court case was decided on 28-2-1983 and after receipt of documents the aforesaid fresh charge-sheet was issued on 7-1-1984 which was perhaps received by Shri Mangal Prasad. On 13-1-1984, as he submitted an application on 13-1-1984 requesting to treat his defence dated 17-9-1984 to be valid for this charge-sheet also. The request is acceded to and I am inclined to decide the case on the strength of the said defence, dated 17-9-1982.

I gone through the charge-sheet defence and documents connected with the case very carefully. In his defence Shri Mangal Prasad has stated that he was working as LC-III on 13-2-1976 and transfer case of Saidarganj SB-22(b) a/c no. 60215 was received by him through LC-IV, who was dealing with same. Sanhighat S.O. duly completed with all formalities on Sb-10(b) and with accepted signatures of Shri Gur Prasad by the S.P.A. That he having no doubt about the difference in signatures of the depositor transferred the a/c from Saidarganj to ...

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Ghat So & prepared the local transfer journal and hand-
 over it to the A.P.M. for onward submission to
 SBCO after necessary scrutiny and signature. The
 comparison of signatures of SB-10(b) could not be
 done as the specimen signature of the depositor were
 kept by Sri M.K. Privastava the then P.M. BEK. These
 arguments of Sri Mangal Prasad can not save him
 from his own responsibility as it was incumbent on
 him to notice the irregularities of the S.P.M.R.S.
 Ghat who transferred the a/c without getting the
 balance verified from H.O. & also without obtaining
 the permission of the H.O. and further no pass book was
 accompanying with SB-10(b) in which balance
 was shown as Rs. 5964-70 paise against balance at
 credit in the ledger card as 6268.45. In this way
 it was but necessary to call for the PB immediately to
 rectify the difference in balance first and till
 then the transfer of a/c should have been held
 in ~~bank~~ ~~avevance~~ ~~to~~ say in the defence that the
 charges are baseless is very surprising and mere prepa-
 ration of local transfer journal on receipt of
 S.B. 10(b) handing over it to A.P.M.(SB) & acceptance
 of its receipt ~~of SB-10(b) handing over it to~~ by
 A.P.M. in his w/s can not be taken as granted that ~~it~~

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all was done correctly by the S.P.M. R.S.Ghat
In fact the said Sri Mangal Prasad. should have not
taken the irregularities of the S.P.M. R.S.Ghat a/c.
lightly and the a/c should have not been transferred
till receipt of the PB from the S.P.M. R.S.Ghat and
its ~~xxx~~ difference in balance rectified.

The said Sri Mangal Prasad in his defence
has further contended that since the a/c was already tra-
nsferred by S.P.M. R.S.Ghat allotting new a/c no 231771
and who made the w/d for Rs. 5950/- from it on proper
identification, may only be held solely responsible
for fraudulent w/d. This contention is not tenable
because this withdrawal could have certainly been
averted. had he been little vigilant to the serious
ommission/irregularities of the S.P.M. R.S.Ghat and had
he challenged these to the S.P.M. the very day on
13-2-1976 as there has been he challenged these
to the S.P.M. the very day on 13-2-1976 as there has
been a gap of 4 days in between the date of allowing
transfer of a/c on 13-2-1976 and date of fraudulent
w/d of 5950/- from the a/c on 17-2-76. Whereas the
objection would have reached to the S.P.M. atleast
upto 15-2-1976 had he sent by Sri Mangal Prasad.

His further plea that as a ledger clerk he

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was to transfer the a/c taking ledger balance and Not of SB 10(b) is not supported by any rule as it was his foremost duty not to transfer the a/c unless the PB was received by difference in balance not rectified. His assertion that he is not guilty of the charge as he was exonerated by the CBI and he was made witness Govt. witness, but it is meaningless in view of the fact that CBI/Police has to investigate criminal aspects and not Deptl. lapses. His claim that he applied for not see supply of certain documents for preparation of defence is not acceptable as none of his applications dated 21-7-1977, 1.2.1978 and 18-4-78 appears to have been received in this office and are not available in this office file.

From the aforesaid findings, the charges levelled against Sri Mangal Prasad, stand fully proved and his lapse are directly attributable to the aforesaid fraudulent withdrawal and therefore deserves for severe action to be taken against him. However taking into consideration the quantum of the lapses committed by Sri Mangal Prasad in this charge of his duties as ledger clerk, the undersigned hereby order that a sum of 500/- (Rs. five hundred only) being his share of total loss should be recovered from the pay of the official in ten equal monthly instalments of Rs. 50/-

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per month which will meet the ends of justice.

Further the period of suspension w.e.f. 23-7-1976 to 8-7-1987 is hereby ordered to be treated as leave due and admissible to the official. However the pay and allowances already paid will not be recovered from him.

(I.P. Sagar.)
Supdt. of Post Offices
Barabanki Div. Barabanki

Copy for information and n/a to 225 001.

1. Sri Mangal Prasad, S.P.M. J.L.Naj, (BCK)
2. PM BBK HO
3. Director of a/c Postal Lucknow.
4. RF of official.
5. Vig Statt.
6. Cr file of the official
7. 8. o/c and

TRUE COPY
(Signature)
(Date and Address)

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Annexure No. A-4

Indian posts and Telegraphs Department.

Office of the Director Postal Services, Lucknow
Regn.

Memo No. RDL/APP-17/84/13 Dated at LW the 31-5-1984.

This is an appeal dated 9-3-1984 from Shri Mangal Prasad S.P.M. J.B. Rai, Barabanki Postal Division submitted against the orders of punishment of recovery of Rs. 500/- and also treating the period of suspension as leave issued vide S.P.Os. Barabanki Memo No. F/SB-5/76-77 dated 16-1-1984.

2- The appellant was issued a charge sheet under Rule 16 of CCS (CCA) Rules, 1965 on 7-1-1984 for contro-vention of Rule 442 (1) read with Rule 440 (i) of P & T Man. Vol. VI part II. The appellant while working as Ledger Clerk on 13-3-1976 in Barabanki H.C. received SB 10(b) in r/o Safdarganj SB account No. 60215 for transfer to Ram Sanahi Ghat through S.P.M. Ram Sanahi Ghat. The above account was already transferred by the S.P.M. Ram Sanahi Ghat & a new account number 231771 was noted on SB 10(b). The appellant failed to ~~notice~~ notice that the above account was transferred by the S.P.M. R.S. Ghat without getting its balance verified and obtaining prior permission from Barabanki H.O. The pass Book was also not received along with the S.P. 10(b) from. He also did not tally the signature of the depositor on record but accepted in toto the identification which was wrongly worded by an Advocate and verified by the S.P.M. Later on the S.P.M. fraudelently withdrew Rs. 5950/- from this account on 17-2-1976.

3- The appellant in his appeal has challenged that there was no proper ground for imposing recovery from his pay. He has also mentioned that the balance of the account when compared from the ledger of the H.O. and amount noted in SB 10(b) was tallying after adding interest. He also says that the S.P.M. was with in his rights to have allotted the account number in advance and this does not mean that he has transferred the account at R.S. Ghat.

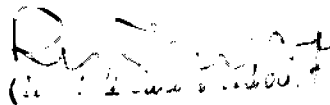
4- The appellant has also stated that his suspension period was treated as period spent on leave without his consent.

5- I have been the entire case and it is clear that the appellant has accepted in toto the identification by an Advocate and the identification was further verified by the S.P.M. Identification was also not properly worded which was not challenged by the appellant. On subsequent enquiries the so called identifier could not be traced. The appellant should have doubted and taken the pains to have compared the signature specially when the identification was not in the prescribed wordings. If there was difference in the balance, he should have also taken action to call for the pass book for adding interest because the interest was not added in the pass book. It was the stage when the fake identification could have been noticed. Because of the lapse of the official

the Government had suffered loss because the S.P.M. R.S.Ghat had subsequently withdrawn Rs. 5950/- from ~~this~~ this account on 17-2-1976. I, therefore, find the official's negligence directly responsible towards the misappropriation of amount by the S.P.M. R.S.Ghat and hold the orders of recovery imposed on the official good.

6- With regard to the appellant's another plea that the entire period of suspension has been treated as E.L. without his consent, I concede that the appellant's version is right and his consent before deciding the period should have been obtained as laid in FR 54(5). The orders of the S.P.Os. with regard to treating the period of leave are, therefore, set aside. As the official has not been exonerated but the punishment of recovery has been imposed on him, it would be proper if the period is treated duty for all other purposes except pay which should be restricted to the subsistence allowance already drawn by the appellant while under suspension.

TRUE COPY


(R. S. Ghat)

(S.P.Ojha.)

Director Postal Services
Lucknow Regn.

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Annexure

To,

The Chair/Man,
Posts and Telegraphs Board,
New Delhi.

Sub:- Petition against the order of Director
Postal services Lucknow Region vide No.
ED/LAPP -17/84/B dated 31-5-1984 received
from S. Post Barabanki on 8-6-1984 rejecting
the appeal preferred against the order of
Supdt. Post Offices, Barabanki imposing
to penalty of recovery of Rs. 500/- on
Mangal Prasad S.P.M. Jahangirabad Raj
Barabanki (ii) treating the period of
suspension as leave due vide Memo No. F/SB-5/76-77
dated 16-1-1984 (Copy enclosed as Annexure
A & B).

Sir,

The abovenamed petitioner begs to submit
as under :-

Facts of the case in brief are that the
petitioner was working as S.O. S.B.Ledger Clerk III
Barabanki H.O. in Feb, 1976. Pafdarganj, S.O. was in
the branch of petitioner. Ram Sanahi Ghat S.O. was
in with S.O.Ledger clerk IV. SB 10(b) for transfer
of Pafdarganj SB A/C No. 50215 to Ram Sanahi Ghat S.O.
under same Barabanki H.O. was presented at Ram Sanahi
Ghat S.O. on 10-2-1976. Ram Sanahighat S.O. was autho-
rised to issue Pass book independently. The S.P.M.
got identification of depositor and send the SB 10(b)
to Barabanki H.O. and allotted new number of his

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office to the said account S.B. 10(b) with new number was received by S.O. B. Ledger Clerk IV who transferred the same to petitioner. The petitioner verified the particulars and prepared the combined Debit/Credit journal and placed it before the A.P.M. who signed it and was submitted to S.B. C.O. Barabanki.

2- A withdrawal of Rs. 5950/- took place on 17-2-1976 from the aforesaid SB A/C at Ram Sanahi Ghat after being transferred. Later on it was discovered that said withdrawal was fraudulent.

3- Although the petitioner had no concern with the aforesaid withdrawal as Ram Sanahi Ghat S.O. was not dealt with by petitioner. The Supdt. Post Offices, Lucknow (M) suspended the appellant vide Memo No F/SB-5/76-77 dated 23-11-1976 when the petitioner submitted to Supdt. Post Offices Lucknow (M) that suspension and its continuation was unjustified as the chargesheet served vide Memo No. of even No. F/SB-5/76-77 dated 20-6-1977 i.e, after 7 months of suspension. The petitioner was reinstated on 8-7-1977.

4- The case was also reported to police who made enquiries. The petitioner requested the Supdt. Post Offices Barabanki to supply copies of documents vide application dated 21-7-1977 (copy enclosed as Annexure (C))

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The petitioner was informed vide letter No. even dated 28-11-1977 that documents at serial No.1 to 3, 8,10, 14 are irrelevabt., the petitioner was thus forced to submit defence on 17-9-1982. (Copy attached as Annexure 'D'). The Supdt. Post Offices on receipt of defence made the following order vide No. F/SB-5/76-77 dated 10-12-1982.

" As the case of Shri Mangal Prasad S.P.M. J.B. Raj is still under trial in the Court, the departmental proceedings should not be held simultaneously with the court proceedings. So the charge sheet issued under rule 16 of the CCS(CCA) Rules 1965 to Shri Mangal Pr. S.P.M. J.B. Raj vide this office Memo No. F/SB-5/76-77 dated 20-6-1977 is hereby dropped till the finalisation of the Court Case".

5- On 7-1-1984 the Supdt. Post Offices Barabanki issued a chargesheet vide memo No. E/SB-5/76-77 dated 7-1-1984 with similar allegation as was done on 20-6-1977. The statement of imputation are reproduced below :-

" Shri Mangal Prasad S.P.M. J.B. Raj Barabanki while working as ledger clerk Barabanki H.O. on 13-2-1976 received SB-10(b) in respect of Safdarganj SBA/C No. 69215 for transferring this account to Ram Sanhighat P.O. through S.P.M. R.S.Ghat P.O. The aforesaid account was already transferred by the S.P.M. R.S.Ghat and a new account number 231771 was noted

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on SB 10(b). Shri Mangal Prasad failed to notice that the above account was transferred by S.P.M. R.S. Ghat without getting its balance verified from H.O. and without obtaining permission of H.O. in this regard. The SB-10(b) mentioned above was not accompanied by the relevant pass book. The said Sri Mangal Prasad failed to challenge it and to call for pass book for verification of balance. He also failed to compare the signature of so called depositor available on SB-10(b) with that on record on the plea that specimen signature was not traceable while specimen signature was available at Barabanki H.P. The said Sri Mangal Prasad did not trace it out at the time of transferring the account to R.S. Ghat otherwise the difference in signature of depositor could have been detected and subsequent fraudulent withdrawal of Rs. 5950/- from this account dated 17-2-1976 would have been averted. Moreover in SB-10(b) the balance was noted as Rs. 5954-70 paise. Shri Mangal Prasad transferred the account with a balance of Rs. 6268-45 which was the ledger balance. The said Sri Mangal Prasad therefore failed to call for the pass book to rectify the difference in balance. The said Sri Mangal Prasad also failed to send intimation of transfer of account of Safdarganj S.O. on 13-2-76. Thus the said Sri Mangal Prasad while working as Ledger Clerk Barabanki H.O. failed to follow the prescribed procedure in transferring safdarganj Barabanki A/c No. 60215 to R.S. Ghat P.O. and violated

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the provisions of rule 442(1) read with Rule 440 (i) of P & T Man. Vol. Vi Part II.

The aid Sri Mangal Prasad also failed to maintain absolute devotion to duty and did an act unbecoming of Govt. servant and thereby violated the provisions of rule 3 (ii) & 3 (iii) of C.C.S. (Conduct) Rules 1964".

6- The petitioner submitted his defence (Copy enclosed as Annexure (B)). The S.Post Barabanki imposed the penalty & did not consider the case objectively.

7- Appeal was preferred to D.P.S. Lucknow Region on 9-3-1984 but the same has been rejected on 31-5-1984 and communicated on 8-6-1984.

8- The petition is submitted on the following grounds :-

• GROUNDS OF PETITION.

The petitioner most respectfully invites your kind attention to the following relevant paras of D.G. P, & T Letter No. 114/176/78-DISC II dated 13-2-1981 incorporated as Govt. of India Instruction No. 27 below rule 11 of the CCS (CCA) rules 1965 at page 50 and 51 in Swamy's compilation of CCS (CCA) Rules (1983 Edition) sub rule (b) be referred.

" It should be clearly understood by all the disciplinary authorities that while an official can be punished for good & sufficient reasons the penalty of recovery can be awarded only if the lapses on his part have either led to the commiss-

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ion of fraud or misappropriation or frustrated the enquiries as a result of which it has not been possible to locate the real culprit. It is therefore obligatory that the chargesheet should be quite elaborate and should not only indicate clearly the nature of lapses on the part of particular official but also indicate the modus operandi of fraud and their particulars and how it can be alleged that but for the lapses on the part of official the fraud or misappropriation could be avoided or that successful enquiries could be made to locate the stage at which the particular fraud had been committed by a particular person. This will enable the accused not only to submit a defence against the allegation brought against him but also to explain how the lapses had not contributed to loss in any manner. The disciplinary authority is also required to give a clear finding in the punishment order on both these points. If it is not done the order awarding the penalty of recovery will be liable to be set aside".

The general condition laid down in rule 106, 107 and 111 of P & T Manual Volume III is as under :-

" In the case of proceedings relating to recovery of pecuniary losses caused to the Govt. by negligence or breach of orders by Govt. Servant, the penalty of recovery can be imposed only when it is established that the Govt. Servant was responsible

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for a particular act or acts of negligence or breach of orders or rules and that such negligence or breach caused the loss.

In the case of loss caused to the Govt. the competent disciplinary authority should correctly assess in a realistic manner the contributory negligence on the part of an officer and while determining any omission or lapses on the part of the officer the bearing of such lapses on the loss considered."

Rule 16 of CCS (CCA) Rules envisages reasonable opportunity as well as seen from para 1 (a). The reasonable opportunity means that Govt. official should be afforded opportunity to adduce evidence in his defence.

The Supdt. Post Offices Barabanki has mentioned the following lapses on the part of appellant in the statement of imputation.

2(1) He also failed to compare the signature of the so called depositor available on SB 10 (b) with that on record on the plea that specimen signature was not traceable while specimen signature was available at Barabanki. The said Shri Mangal Prasad did not trace it out at the time of transferring the A/C to Ram Sanehi Ghat otherwise the difference in signature of depositor would have been detected."

It may be noted that it was never alleged

On his identification attestation of signature the S.P.M. Ram Sanehi Chat countersigned the signature of depositor. In these circumstances the finding that fraudulently withdrawal of Rs. 5950/- on K17-2-76 at Ram Sanehighat would have averted if the petitioner would have compared the signature of SB 10(b) with specimen on record is perverse, capricious and unreasonable. No recovery could be made on account of this alleged omission which was not required when the signature of deposit or was already attested.

(ii. The aforesaid account was already transferred by S.P.M. Ram Sanehighat and new A/C No. was noted on SB-10(b) Shri Mangal Prasad failed to notice that the above account was transferred by S.P.M. Sanehighat without getting the balance verified from H.O. and without obtaining permission of H.O. in this regard. The S. B.10(b) mentioned above was not accompanied by the relevant pass book,. Shri Mangar Prasad failed to challenge it and to call for the pass book for verification of balance."

In this connection the supdt. Post Offices failed to appraise that the balance of the pass book i.e. 5964-70 was verified by the S.P.M. Ram Sanehi Chat from the pass book presented by the depositor applying for the transfer. This pass book was deposited in the court of Chief Judicial Magistrate Barabanki on 1.11.75 in a bail case. The interest was not added in the pass book . In the ledger card the interest was added and the balance was Rs. 6268.15. Thus there was no difference in the balance and no rectification

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was necessary.

The supdt. Post Offices Barabanki has failed to take into consideration that were allotment of number by the Sub Post master Ram Sanehighat on SB 10(b) does not amount that account was opened there. He failed, to take into consideration the rules and procedure on the subject. Even if B 10(b) is received from any other office than office to which transfer is desired, it is to be sent to the later office for allotment of number and thereafter transfer of account to said office is effected. This is rule and procedure when the account is to be transferred to a departmental Sub Office authorised to issue pass book independently. The Supdt. of Barabanki has twisted the facts and ignored the rules and procedure while alleging and coming to finding that by allotment and noting the number of S.B. A/C allotted is his office the account was already opened by S.P.M. Ram Sanehighat that the petitioner failed to challenge it. It can not be imagined that while setting at Barabanki the petitioner would have known from number allotted on SB-10(b) that account was stood opened. Even if SB-10(b) without allotment of number would have been received from Ram Sanehighat the same was to be sent back to Ram Sanehighat for allotment of number. When there was nothing wrong if the S.P.M. sent the SB-10(b) without allotment of number. No reasonable person in these circumstances and also as per procedure laid down come to conclusion that by this Act of S.P.M.

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account should have been considered to be opened there.

In the finding the Supdt. Post Office Barabanki has mentioned as under :-

" This contention is not tenable because the withdrawal could have been certainly averted had he been little vigilant to the serious omission/irregularities of the S.P.M. Ram Sanhighat and had he challenged these to the S.P.M. Ram Sanhighat very day on 13-2-1976 as there has been a gap of 4 days in between allowing the transfer of A/C on 13-2-1976 and date of fraudulent withdrawal of Rs. 5950/- from A/c on 17-2-1976 whereas the objection would have reached to S.P.M. at least upto 15-2-1976 had he sent by Shri Mangal Prasad". Now what was the objection to be sent to Ram Sanhighat on 13-2-1976. The allotment of number of SB A/C on SB-10(b) by S.P.M. Ram Sanhighat was required by rule and procedure because it was after allotment of number that SB account would have been transferred. Non submission of the P.B. was also immaterial because the balance noted on SB 10(b) and verified from pass book by S.P.M. Ram Sanhighat was tallying with ledger balance except that interest for 1974-75 was not added therein. Moreover for local transfer within same H.O. the submission of pass book was not much material. It was necessary when account was to be transferred to a Sub office under another H.O. because in the P.B. entry i.e., a closed and transferred was to be noted therein but in

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transfer within same H.O. this entry in P.B. was not necessary and required under rules. The signature of the depositor on SB-10(b) was got attested by s.p.m. from respectable person i.e., Shri A.B. Kidwai Vakil. therefore there was no material irregularity.

SB(7) Viz. application for withdrawal will show that the withdrawal of Rs. 5950/- was allowed only when the depositor was identified by Shri A.N. Kidwai Vakil on 17-2-1976 after being transferred to his office. In case there was any lacuna in SB(7) though not mentioned the S.B. ledger clerk no. IV and not the petitioner is responsible.

Thus neither there has been any lapse on the part of petitioner nor lapses alleged could be construed to have contributed the fraudulent withdrawal of Rs. 5950/- on 17-2-1976. The punishment of recovery is therefore without jurisdiction and in contravention of the instructions of D.G. P& T New Delhi referred to above.

All the above rules and law as well as facts were placed before the appellate authority in the appeal but the D.P.S. Lucknow Region did not consider the appeal in objective manner. Instated the A.P.S. Lucknow Region took into consideration extraneous matter in deciding appeal. No such fact were alleged by disciplinary authority as will be seen

from statement of imputation. It was never alleged that the identification remarks on SB 10(b) were not in proper words as prescribed in rules. It was also not alleged that identification was fake and that identifier was not traceable at subsequent enquiry. It was also not alleged that petitioner accepted identification. The L.P.S. Lucknow Regional Committed error of law while taking into consideration extraneous matter. The Director postal Services Lucknow Region, the appellate authority has mentioned in para 5 as under :-

" I have seen the entire case and it is clear that the appellant has accepted in toto the identification by an Advocate and the identification was further verified by the L.P.S. . Identification was also not properly worded which was not challenged by the appellant. On subsequent enquiries the so called identifier could not be traced. The appellant should have doubted and taken the points to have compared the signature specially when the identification was not in the prescribed wordings."

The important question of law arises whether the appellate authority will allege new facts while deciding the appeal. The rules of Natural justice requires that no material should be taken into consideration without giving opportunity to rebut. The petitioner has mentioned above that no such allegation as has been taken into

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consideration by appellate authority were alleged by disciplinary authority. Even the contention of the appellate authority on the new fact is ~~xxx~~ erroneous and misconceived. The important issue to be decided is whether identification remarks written by identifier in his own language and words not consistent with language and words prescribed in rules will not amount to identification of such person as has been observed by learned appellate authority. SB-10(b) and application for withdrawal of Rs. 5950/- will show that the identifier was respectable person i.e., Vakil Ram Sanehi Ghat. The words used by him in identification of depositor are as under :-

" SB-10(b) " I certified that applicant (depositor) who has signed before as certified and confirm that the applicant has signed before me." A.E . Kidwai Vakil 17-2-1976.

Application for withdrawal SB(7).

" I identify Gur Prasad (depositor) who has signed before me.

A.B.Kidwai.

Vakil 17-2-1976.

No reasonable person will come to conclusion on the above facts that the depositor was not identified by the aid Shri A.B.Kidwai while submitting SB-10 (b) or application for withdrawal. Non use of words mentioned in Manual in identification

remarks will not amount to non identification of depositor and the findings of the appellate authority though in-warranted became no such facts were alleged, on the issue is perverse and erroneous. The petitioner had requested the Supdt. Post Offices Barabanki to supply the copy of the identifier statement vide application dated 21-7-1977 (Annexure (C) but the said statement was not supplied and declared irrelevant vide letter dated 17-12-1977 (Photostat copy attached as Annexure (D)). Relevancy of document is determined after going through the document. The existence of statement of Shri A.B.Kidwai identifier is thus established. The facts mentioned by the D.P.S. Lucknow Region that a identifier could not be traced on subsequent enquiry is thus false and incorrect. This conceived the petitioner has already said above that there was no allegation in referred to identification remarks or the identifier. As such there was no opportunity to rebut the above alleged facts by D.P.S. Lucknow Region for which the appellate authority has no legal right to introduce the new fact. Assumption of D.P.S. Lucknow Region on the issue of identification is not only illegal but also baseless.

To say that Shri A.B. Kidwai has not identified Shri Gur Prasad, depositor of SB A/C and

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that identification was suspicious and petitioner should have doubted as has been said as mentioned in appellate order by appellate authority because Shri A.B. Kidwai did not write identification remarks in similar words used in P & T . Manual Vol. VI part III will be mockery of justice. The appellate authority has not considered the case in objective manner which has resulted in miscarriage of justice. The appellate authority has mentioned in his order that it was the stage i.e., when SB-10(b) was received that fake identification could have been noticed. It has been assumed that identification on SB-10(b) was fake when the reality is that Shri A.B. Kidwai Vakil Ram Sanhi ghat and he was contacted by police and postal authorities and as is learnt that he admitted to have identified the depositor on SB-10(b) and application for withdrawal. No where in punishment order or appellate order the disciplinary or appellate authority have asserted that Shri A.B. Kidwai Vakil denied the identification remark on SB-10(b) and application for withdrawal. On what ground it is said that identification was

fake has not been mentioned in the order and thus finding is based on no evidence.

It may also be noted that the identification was made in presence of S.P.M. Ram Sanhighat and he has accepted the identification when an Incharge of L.B.C. S.C. accepts identification there was no ground to discard or doubt the identification. More over no such facts were alleged in statement of imputation.

Both the disciplinary and appellate authority has failed to mentioned how the losses alleged by them has caused the loss when the payment was made on identification of S.P.M. Ram Sanhighat after the transfer of account and withdrawal of Rs. 5950/- was dealt with by other ledger Clerk and not by the petitioner. Both the authorities have ignored the order of the D.G. P. & T New Delhi in regard to transfer of a/c communicated vide letter No. 5-10/74-SB dated 10-2-1975 reproduced above laying down that transfer should be effected by H.O. even if signature of depositor cannot be obtained for attestation with remark that Signature does not agree and account may be opened on

transfer, withdrawal to be allowed only after proper identification. The position is the case is that signature of depositor was attested by respectable person. In view of such provisions in rules order of Director General P & T . New Delhi the contention of appellate authority that the petitioner should not have transferred the SB A/C from Safdarganj to Ram Banhighat under same H.O. of Barabanki because identification made by Shri A.B.Kidwai Vakil was not in words presented in rule of P & T . Manual Vol. VI part II even if S.P.M. accepted it is incorrect, erroneous and liable to be struck down. The finding of both authorities that transfer of the account has caused the loss & is attributable to petitioner is far from imagination and unreasonable as well as unjustified. It will be thus seen that neither there has been any lapse on the part of petitioner in regard to transfer of account nor any loss was caused due to negligence of petitioner which is condition precedent to the imposition of penalty of recovery of loss from pay of the appellant.

The appellate authority further failed to mention in appellate order how it is said that there was difference in the balance as shown in SB-10(b) a.

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and ledger card. The petitioner had mentioned in his defence and appeal that there was no difference in balance except that in P.B. the interest of one year was not added and therefore there was no necessity to call for pass book in transfer of account from one S.O. to another Sub Office under same Head Office.

The appellate order will show that the learned D.P.S. Lucknow Region has assumed new fact and inserted new allegation that identification was not in proper words, that identification was fake and that identifier was not traceable and that fake identification was not noticed by petitioner. The D.P.S. Lucknow came to conclusion that the above lapses on the part of petitioner caused the loss. It is respectfully submitted that by taking into consideration extraneous matter and alleging new facts and then rejecting the appeal on the basis of consideration of extraneous facts not contained in statement of imputation ~~in~~ the D.P.S. Lucknow has committed error of law and the order is liable to be quashed.

There is also vital defect in the disciplinary proceedings initiated by the S.Post Barabanki and

vide No. P/SP-5/76-77 dated 7-1-1984. The above proceedings once initiated vide no. P/SP-5/76-77 dated 20-6-1977 were dropped vide ~~xxx~~ Memo dated 17-9-1982 reproduced in page 4 of the petition. In the order dated 17-9-1982 the Supdt. Post Offices Barabanki did not mention that the proceedings are being dropped without prejudice to further action which may be considered in the circumstances of the case. Reference is invited to Govt. of India Instruction No. 9 below rule 15 of the CCS (CCA) Rules 1965 in Swamy's publication of CCS(CCA) Rules reproducing D.G. P & T Letter No. 114/324/78-DISC.IT dated 5-7-79.

The D.P.S. Lucknow has ordered that the period of suspension will be treated as duty for all purposes except pay ~~xxx~~ and allowances which shall be limited to subsistence allowance. It may be submitted that neither disciplinary authority nor appellate authority issued showcause notice and gave opportunity to submit representation against the treatment of the suspension. Period. The order is therefore violative of rules of natural justice illegal.

It was submitted in appeal that the suspension was and is wholly unjustified as condition

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precedent to exercise of power under rule 10 of CCS (CCA) rules. Suspending the petitioner did not exist. The relevant para is reproduced below :-

" In fact the suspension was wholly unjustified as condition precedent of passing of such order did not exist guiding principle for placing a Govt. servant under suspension was issued by Govt. of India vide MHA letter No. 43/56/64-ABD dated 22-10-1964. The Director General P & T New Delhi on the basis of aforesaid letter issued instruction laying down condition for suspension vide No. 201/43/76 DISC II dated 15-7-1976 para (b) referred which is reproduced below :-

"Even in the above circumstances an official may be placed under suspension only in respect of misdemeanour of following type.

- (i) an offence of conduct involving moral turpitude.
- (ii) Corruption, embezzlement or mis-appropriation of Govt. money.
- (iii) Serious negligence or dereliction of duty resulting in considerable loss to Govt.
- (iv) desertion of duty.
- (v) Refusal or deliberate failure to carry out

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written orders of superviosrv officers.

In thecase of apoellant the above condition did not exist. As such the order of suspension was passed without jurisdiction and it is illegal. The appellant is therefore entitle for treatment of period of suspension as duty for all purposes and fully pay and allowances for period 23-11-1976 to 8-7-1977.

P R A Y E R

The appellant prays that impugned order of the Dupdt. Post Offices, Barabanki imposing the penality of recovery and the order of the D.P.S.Lucknow rejecting the appeal vide Memo No. RDI/APP-17/84/12 dated 31-5-1984 be set aside. It is further prayed that suspension order be declared unjustified and be treated ~~(Mangal Prasad)~~ as duty for all purposes including pay and allowances which may be ordered to be paid to petitioner.

Yours faithfully.

TRUE COPY
[Signature]
(M. S. T. and J. S. T.)

(Mangal Prasad.)

Annexure No. A-2

No. 2/227/86-Vig.III
Government of India.
Ministry of Communication
Department of Posts.

New Delhi-110 001.

Dated: 20-8-1986.

ORDER

Shri Mangal Prasad, S.P.M. Haj Barabanki

has submitted a petition against the penalty of recovery of 500/- from his pay ordered by supdt. of Post Offices, Barabanki and upheld by the appellate authority, Director Postal Services Lucknow Region, Lucknow.

2- Disciplinary proceedings were initiated on 20th June, 1977 under rule 16 of CCS(CCA) Rules, 1965 by the Supdt. of Post Offices, Lucknow with the following imputations:-

" Shri Mangal Prasad S.P.M. Barabanki Bazar (Under suspension) while working as ledger clerk Barabanki H.C. on 13-2-1986 received SB-10B in respect of Safdarganj SB A/C No. 60215 for transferring this account to Ram Sanehi Ghat P.O. through S.P.M.R.S Ghat P.O. The aforesaid account was already transferred by the S.P.M. Ghat and a new account No. 231771 was noted on SB-10(b). Shri Prasad failed to notice that the above account was transferred by S.P.M. R.S. Ghat getting its balance verified from H.C. and without notice

obtaining permission of H.O. in this regard. The SB-10(b). mentioned above was not accompanied by the relevant pass-book. The said Shri Prasad failed to challenge it and to call for pass book for verification of balance. He also failed to compare the signature of so called depositor available on SB-10(b) with that on record on the plea that specimen signature was not traceable while specimen signature was available at Barabanki H.O. The said Shri Prasad did not trace it out at the time of transferring the account to A.S. Ghat otherwise the difference in signature of deposit or could have been detected and subsequent fraudulent withdrawal of Rs. 5950/- from this account dated 17-2-1986 would have been averted. Moreover in SB-10(b) the balance was noted as Rs. 5964.70P. Shri Prasad transferred the account with a balance of Rs. 6268.45P. which was the ledger balance. The said Shri Mangal Prasad therefore, failed to call for the pass book to rectify the difference in balance. The said Shri Prasad also failed to send intimation of transfer of account to Safdarganj P.C. on 13-2-1986. Thus the said Shri Prasad while working as ledger clerk Barabanki H.O. failed to follow the prescribed procedure in transferring Safdarganj Barabanki A/c No. 60215 to A.S. Ghat and violated the provisions of rule 442(1) read with

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rule 440 (i) of P & T Man. Vol. VI Part-II.

The said Shri Prasad also failed to maintain devotion to duty and did an act unbecoming of a government servant and thereby violated the provisions of rule 3 (ii) and (iii) of CCS (Conduct) Rules, 1964". After considering the defence statement of the official, the disciplinary authority held that the misconduct committed by the petitioner in his duty as ledger clerk directly is attributable to fraudulent withdrawal of Rs. 5950/- and that, therefore, charges were proved. Accordingly, a sum of Rs. 500/- was ordered to be ~~recovered~~ recovered from him. As already stated this was upheld by the appellate authority after due consideration of the appeal.

3- In the petition under consideration after giving the history of the case, the petitioner has stated that the instructions issued by the D.G.P. & T and provisions in rule 106, 107 and 111 of P&T Man. Vol. VIII require that a government servant could be held responsible for a loss only if lapses on his part have either led to commission of fraud or misappropriation or frustrated the inquiries. He has also stated that the charges against him was that he had failed to compare the signature of the depositors in this case with

those on record even though it has not been mentioned that the signatures differed no has the fact of the signatures having been attested by one Shri A.B.Kidwai been given. He has accordingly questioned the findings of the disciplinary authority with regard to later holding that if the petitioner had compared the signatures the loss could have been averted. He has stated that there was actually no difference in the balance was certified to be correct by the S.P.M. Ram Sanehi Ghat. He has the stated that the Suptd. of Post Offices, Barabanki had failed to take into consideration the fact that by mere allotment of number by the S.P.M. Ram Sanehi Ghat of Sb-10(b) the account could not be said to have been opened. There. He has stated that he had followed the rules correctly and that if there was any lacuna for fraudulent withdrawal of Rs. 5950/- ledger clerk No. IV and not the petitioner was responsible. He has contended that there was no lapse on his part not the alleged lapses can be constituted to have contributed towards fraudulent withdrawals of Rs. 5950/- accordingly the penalty awarded to him is justified. He has stated that the appellate authority

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-5-

ty took the exgraneous matters into consideration like subsequent verification of the identifier who could not be traced etc. By doing so, the appellate authority had raised new allegations. He has stated that there was no reason to suspect at the time of the receipt of SD-10 (b) that Shri A.B. Kidwai, the identifier was not traceable. He has stated that there was no opportunity given to the petitioner to rebut. He has conducted that the appellate authority did not examine the case in an objective manner which resulted in miscarriage of justice. He has stated that the disciplinary and appellate authorities have nowhere stated that Shri Kidwai, Vakil had disowned the identification specially when it was made in the presence of S.P.M. Nam Sanahi Ghat. He has also stated that once the proceedings were dropped, they would not be revisited, by the disciplinary authority, accordingly, the proceedings are definitive. He has prayed for setting aside the order of recovery and the appellate order in this behalf.

4- The petition has been considered carefully alongwith all the relevant records of the case and it is observed that the disciplinary authority has acted in accordance with the instructions of D.G.P. & T and rules contained in rule 106, 107 and 111 of P&T Man. Vol. III as the petitioner's acts of mis-conduct

contributed directly towards causing the fraudulent withdrawal and thereby loss to the department. The argument of the petitioner that the allegation was not ~~an~~ ~~with~~ ~~an~~ regard to difference of signatures but was only non-comparison of signatures, is of hair splitting type even though both these things in this case mean the same thing. It is observed that the petitioner failed to call for the pass book at the time of transferring the account which should not have been done. The balance in the account was also not followed before allowing the transfer of the account. The petitioner was required to challenge the difference in the balance and call for the pass book for entry of interest and verification before ~~xx~~ transfer. Had the petitioner done his duty properly in this regard the alleged fraud would not have taken place. It is also observed that even the identification had not been done with the proper phraseology, this ~~sh~~ should have been objected to by the petitioner. The petitioner is not ~~stated~~ to be responsible in connection with application for withdrawal and ~~lanses~~ in that regard and that is why out of a total loss of Rs. 5950/- only Rs. 500/- has been recovered from his pay. The recovery in the circumstances stated above, has been ordered correctly. His contention that the appellate

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authority had alleged new imputations in the appellate order is also not correct. It is also observed that the proceedings had been dropped till the finalisation of the case by the court conditionally and therefore their revival subsequently is in order and the contention of the petitioner in this regard is not tenable. To sum up the charges are proved against the petitioner and the penalty of recovery of Rs. 500/- is justified. The petition deserves to be rejected.

5. In view of the foregoing considerations and in exercise of powers conferred on him in accordance with the rule 22 of CCS(CCA) Rules, 1955, the undersigned hereby rejects the petition.

(L. Kishore)

Member (Personnel)

Postal Services Board.

Shri Mangal Prasad,

S.P.M. JB Raj.

Barabanki.

(Through PPS, Lucknow Region, Lucknow-226 007)

TRUE COPY

(B. G. Tewari Secy.)

(60)

SL

Annexure-A-5 (Contd)

No. 3/15/86-Vig.III.
Government of India.
Ministry of Communications
Department of Posts.

New Delhi-110001.
Dated 26-8-1986.

ORDER

Shri Mangal Prasad, S.F.N. JB Maj, Barabanki has submitted a petition against the treatment of period of aspension w.e.f. 23rd July, 1976 to 8th July, 1977 as duty for all purposes including pay and allowances restricted to the level of S.A. already said ordered by the appellate authority in modification of the order passed by the disciplinary authority in this case.

2. Disciplinary proceedings were initiated on 20th June, 1977 under rule 16 of CCS(CCA) Rules, 1965 by the Supdt. of Post Offices, Lucknow with the following imputation :-

Shri Mangal Prasad S.P.N. Barabanki Bazar (under suspension) while working as ledger clerk Barabanki M.C. on 13-2-1986 received SB-10(b) in respect of Sadfar and SB-A/C No. 60215 for transferring this account to Nam Sanehi Ghat P.O. through S.P.N. R.S. Ghat P.O. The aforesaid account was already transferred by the S.P.N. R.S. Ghat and a new account No. 231771 was noted on SB-10(b). Shri Prasad S.P.N. R.S. Ghat without getting

(G/1)

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its balance verified from H.O. and without obtaining permission of H.O. in this regard. The SB-10(b) mentioned above was not accompanied by the relevant pass book. The said Shri Prasad failed to challenge it and to call for pass book for verification for balance. He has also failed to compare the signature of so call depositor available on SB-10(b) with that on record on the plea that specimen signature was not traceable while specimen signature was available at Barabanki H.O. The said Shri Prasad did not trace it out at the time of transferring the account to A.S. That otherwise the difference in signature of depositor could have been detected and subsequent fraudulent withdrawal of Rs. 5950/- from this account dated 17-2-86 would have been averted. Moreover in SB-10(b) the balance was noted as Rs. 5964.70p. Shri Prasad transferred the account with a balance of Rs. 6268.45 P., which was the ledger balance. The said Shri Mangal Prasad therefore, failed to call for the pass book to rectify the difference in balance. The said Shri Prasad also failed to sent intimation of transfer of account to Safdarganj P.O. on 15-2-1976. Thus the said Shri Prasad while working as ledger clerk Barabanki H.O. failed to follow the prescribed procedure in transferring Safdarganj Barabanki A/c No. 60215 to A.S.

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Ghat and violated the provisions of rule 442 (1) read with 440 (1) of P & T Manual Vol. VI part II.

The said Shri Prasad also failed to maintain devotion to duty and did not unbecoming of a government servant and there by violated the provisions of rule 3(ii) and 3 (iii) of CCS(Conduct) Rules, 1964". After considering the defence statement of the official the disciplinary authority held that the misconduct committed by the petitioner in his duty as ledger clerk directly is attributable to fraudulent withdrawal of Rs. 5950/- and that, therefore, charges were proved. Accordingly a sum of Rs. 500/- was ordered to be recovered from him. As already stated this was upheld by the appellate authority after due consideration of the appeal.

3-In his petition under consideration, the petitioner has given his version and has stated that he was placed under suspension from 23-7-1976 to 3.7.1977. After conclusion of the proceedings, the period was treated as leave due and admissible to the official. This was modified by the appellate authority to that of duty for all purposes including pay and allowances restricted to the subsistence allowance already paid. He has contended that he was not given any show cause notice or opportunity

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to submit representation against the treatment of the suspension period. He has also stated that the circumstances of this case did not deserve placing the petitioner under suspension initially and that his period of suspension should be treated as duty for all purposes including pay and allowances.

4- Since the disciplinary proceedings in question were finalised by awarding the penalty of recovery of Rs. 500/- to the petitioner and he has not been exonerated, it is observed that in accordance with the instructions then existing, the appellate authority had correctly treated the period in question as duty for all purposes including pay and allowances restricted to subsistence allowance already paid to the petitioner. The present instructions where the period of suspension is treated as duty for all purposes including pay and allowances in the case of the disciplinary proceedings being concluded with the award of a minor penalty would not apply to this case as these instructions according to the Department of Personnel are not applicable to all cases. The petition, therefore, deserves to be rejected. The petition of the petitioner that there was no case for placing him under suspension as the alleged act of misconduct against him was not such for which he could have been placed under suspension, is also not

tenable as in this case the negligence of duties resulted in considerable loss to the government and therefore, placing the petitioner under suspension was justified. The contention of the petitioner that he was not given any opportunity in the form of show cause by the disciplinary authority before regulating the period of suspension is correct. However, against this order since the petitioner has already availed the opportunity of submitting of appeal and the appellate authority has after considering the plea of the petitioner regulated the period of suspension favourably to the petitioner, he has already been afforded reasonable opportunity by the appellate authority. Had the appellate authority passed the orders restricting the pay and allowances etc. to lower than what the disciplinary authority had given than a show cause notice would have been necessary. Since the appellate authority had passed the order after taking all the circumstances of the case and plea of the petitioner in his appeal into consideration, the order is in accordance with the rules. To sum up, there is no justification to treat the period of duty for all purposes including pay and allowances as requested by the and the petition deserves to be rejected.

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5- In view of the foregoing considerations
and in exercise of powers conferred on him vide 22
of CCS(CO-4) Rules, 1965, the undersigned hereby rejects
the petition.

(A. Kishore)

Member (Personnel).

Postal Services Board.

Shri Mansal Prasad,
S.P.M. J.B. Rai,
Barabanki.

(through D.P.S. Lucknow Region, Lucknow. 226 007).

TRUE COPY

R. J. ...
(R. J. ... Adv.)

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Annexure 7

No,

The President of India
New Delhi

Memorial against the punishment order passed by Supdt. Posts Barabanki and upheld by Dg Enclmop as also by the Chairman Postal Board New Delhi vide copies of each order enclosed.

Respected Sir,

The Memorialist Mangal Das working as Dpm Jahangirabad Raj P.O. in Dist. Barabanki was placed under suspension from 23-11-76 to 8-7-77 for his contributory negligence in effecting transfer of S.B. 1/C No. 30215 from Saffarganj P.O. to Ram Ganahi Ghat P.O. on 10-2-76 which is said to have caused a fraudulent withdrawal of Rs.5950/- from that 1/C from Ram Ganahi Ghat P.O. on 17-2-76. The memorialist has been awarded punishment of Recovery of Rs.500/- and has further been denied the full duty pay & allowances for the suspension period.

In Feby. 1976 the Memorialist had been working as ledger clerk III in the S.B. Branch of Barabanki P.O. He was responsible for the maintenance & upkeep of the ledger of all savings bank 1/Cs standing at Saffarganj P.O. Likewise another Ledger Clerk No. IV was responsible for the maintenance & upkeep of SB 1/Cs standing at Ram Ganahi Ghat P.O.

The transfer of 1/C was accomplished on 10-2-76 and the fraud took place on 17-2-76 at Ram Ganahi Ghat P.O. with which the Memorialist was not the least concerned yet the learned Supdt, the Dg Enclmop & above all the learned Chairman Postal Board New Delhi have all held that had the Memorialist been careful at the time of effecting the transfer of the 1/C the fraudulent withdrawal would have been averted. But now it is an important & most relevant question which none one has replied as such the punishment order is void &

Mangal Das

(67A)

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and deserves to be quashed.

The memorialist, therefore humbly prays

that

That the punishment order, the appellate order as also those passed by the learned Chairman Postal Board New Delhi in this connection may all be set aside and the Memorialist may be allowed to draw duty pay during the period he had been under suspension. He may further be allowed to get refund of Rs.500/- already recovered from him along with interest thereon.

Yours faithfully,

6-1-1987

Sd. Mangal Prasad

True Copy

R.K. Tewari
(R.K. Tewari)
Advocate for the
Applicant.

Mangal Prasad

S. D.-10 (b)

APPLICATION FOR TRANSFER OF.....ACCOUNT

To

The Postmaster,

I request that my.....Account

No.....standing on the books of the.....
Post Office Savings Bank may be transferred to the books of the.....
Post Office Savings Bank.

The passbook which is the balance of Rupees..... (in words) is
attached to my request to be sent to the address noted below. Three specimen
signatures are given below.

- a hold the following kinds of Government Securities in the custody of the Chief
Auditor, Posts and Telegraph
(Kinds of loans specifying the period of loan may be entered here)

Signature of Auditor

Dated

(Address)

Specimen Signature

(1).....

Countersigned

Postmaster

Date

(2).....

Countersigned

Postmaster

Date

(3).....

Countersigned

Postmaster

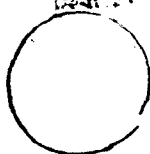
Date

ACKNOWLEDGMENT SLIP

Received application for transfer of.....
Account No.....in the name of.....standing on the books of the.....
Post Office Savings Bank to the books of the.....
Post Office Savings Bank. The balance of Rs.....
showing a balance of Rs..... (Rupees) only.

In the case of C.T. D/B.D. account, the depositor may, at the return of the
passbook, make deposits regularly at the Post Office Savings Bank to which the account is
to be transferred, by showing this acknowledgment.

Date of stamp

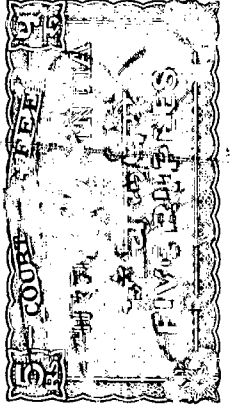


Postmaster's Signature

Name of Post Office.....

Time to be taken

Revenue



(67)

वकालतनामा

अदालत The Central Administrative Tribunal

Alkhalad

नम्बर मुकदमा

GA Regn No

ई०

नम्बर इजारा

सन् १९

ई०

मुद्दै

Mangle Pa.

वाम

अपीलान्ट

मुद्दालेह

में Prahlad Sh. Dehifal

रस्पान्डेन्ट

में/हम 10 Vill. Maninra

निवासी 10 Bahangirah Raj Dist Barabanku

श्री R.K. Tewari, Advocate, 154 Pursatn Nagar, Alkhalad-16

को उपरोक्त मुकदमे की पैरवी के लिये मेहनताना अदा करने का वचन देकर मैं / हम अपना वकील नियुक्त करता हूँ / करते हैं। उन वकील महोदय को मैं / हम यह अधिकार देता हूँ / देते हैं कि वह मुकदमे में मेरी ओर से पैरवी करें आवश्यक सवाल पूछें, जवाब दें और बहस करें दस्तावेज व कागजात अदालत में दाखिल करें, व वापस लेवें पंचनामा उपस्थित करें, पंच नियुक्त करें यदि आवश्यकता हो तो पंच निर्णय का लिखित विरोध करें, सुलहनामा दाखिल करें, दावा स्वीकार करें, उठा लेवें और डिमा प्राप्त हो जाय तो उसे जारी करावे, डिमा का रुपया व खर्चा, हर्जाना का रुपया या किसी दूसरे तरह का रुपया व खर्चा जो अदालत से मुझे / हमें मिलने वाला हो वसूल करें मेरी / हमारी ओर से अदालत में दाखिल करें, कोर्टफीस व स्टाम्प देवें या वापिस लेवें रसीद ले लेवें व प्रमाणित करें, नकल प्राप्त करें, अदालत की अनुमति से मिसिल का मुआयना करें, आवश्यकता होने पर मुकदमा स्थापित करावें व इस मुकदमे के सम्बन्ध में दूसरे काम जो जल्दरी समझें पैरवी के लिए अपनी ओर से कोई दूसरा वकील नियुक्त कर यदि आवश्यकता हो तो अपील या निगरानी दायर करें और अपील निगरानी की अदालत में पैरवी करें और यह भी वचन देता हूँ / देते हैं कि यदि मैं / हम पूरी फीस या खर्च न अदा कर्हूँ / करें तो वकाल साहेब व उनके क्लर्क बहस व पैरवी के लिये बाध्य न होंगे।

इस अधिकार पत्र के अनुसार उक्त वकील महोदय इस मुकदमे के सम्बन्ध में जो कुछ काम करेंगे वह सब अदालत में स्वयं मेरा/हमारा किया हुआ समझा जायेगा और वह मुझे हमें सदेव ही मेरे/हमारे किये के समान सवथा मान्य होगा।

तारीख

30th May 1988

सन् १९

ई०

Accepted. R. Tewari

L. K. Haldar

Advocate

154, Pursatn Nagar

(Khalid)

Alkhalad-16

हस्ताक्षर

Mangle Pa.

गवाह

गवाह

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH
AT ALLAHABAD.

CIVIL MISC. APPLICATION NO. _____ OF 1988.

On behalf of the respondents.

..... Applicants.

IN

REGISTRATION NO. ⁷⁹⁰~~790~~ OF 1988.

Mangal Prasad Applicant.

Vs.

Chairman Postal Board,

New Delhi and others Respondents.

To

The Hon'ble the Vice-Chairman and His other
companion members of the aforesaid Tribunal.

The humble petition of the abovernamed applicants
most respectfully Showeth:-

1. That the full facts have been set out in the
accompanying counter affidavit.
2. That it is necessary in the interest of justice
that the reliefs sought by the applicant in his aforesaid
application may kindly be rejected.

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copy.
Rufey
28/9/88

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(2)

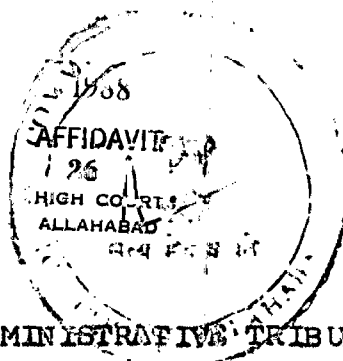
PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may be pleased to allow this application and reject the reliefs sought by the applicant in his aforesaid application.

And/or be further pleased to pass such other and further order which this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.

DATED/-


(K.C. SINHA)
Addl. Standing Counsel,
Central Government.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH
AT ALLAHABAD.

COUNTER AFFIDAVIT

IN

REGISTRATION NO. 790 OF 1988.

Mangal Prasad Applicant.

Versus

Chairman Postal Board,
New Delhi and another

..... Respondents.

Affidavit of Shri R.A. Verma
aged about 50 years son of Late
Shri Ram Doo Verma.

(Deponent)

I, the deponent abovesaid do hereby solemnly affirm
and state on oath as under:-

1. That the deponent is posted as *Supdt of Post offices*
Barabanki Dn. and is authorised to file this
counter affidavit on behalf of the respondents and as such

R.A. Verma

(2)

he is fully acquainted with the facts of the case deposed to below.

2. That the contents of the application filed by the petitioner have been read over by this deponent and he has fully understood them and is in a position to reply the same.

3. That before giving parawise reply to the application it is necessary to give certain facts which may assist this Hon'ble Tribunal in deciding the controversies involved in the case.

4. That while the petitioner was working as Ledger Clerk at Barabanki Head Post-office, on 13-2-1976 he received SB-10(b) (transfer application) in respect of Safdarganj Sub-Office Saving Bank Account No.60215 for transferring the said account from Safdarganj sub-office to Ram Sarahighat sub-office on which the Sub-Postmaster, Ram Sarahighat sub-office had already endorsed new account No.231771. The said transfer was made without the permission of the Head Post-office and also without the balance noted thereon which is to be verified by the Head

R.D. Verma

(3)

Post-office, ~~and also without balance sheet balance~~

The petitioner was performing the duty at the relevant time of a Ledger Clerk III, who was dealing with Safdarganj sub-office matter and he did not challenge the said irregularity and later allowed transfer from Safdarganj sub-office to Ram Samahibagh sub-office. In fact as per the departmental rules, which shall be dealt separately in the subsequent paras of this counter affidavit, he should have objected regarding such an irregularity. The petitioner also has been negligent in not calling for the pass-book which was not received with SB-10(b) (application for transfer) and rectifying the balance i.e. tallying the balance of the pass-book with that of SB-10(b) and Ledger card. The petitioner also had failed to compare the signatures of the depositor appearing at SB-10(b) with the specimen signature on the record of Barabanki Head office. It is also pertinent to mention here that the balance in the said account i.e. 60215 was written ^{on} SB-10(b) as Rs. 5964.70 whereas in the ledger it was being reflected as Rs. 6268.45. The petitioner has transferred the said amount of Rs. 6268.45 to Ram Samahibagh sub-office without reconciling the same after calling for the

R.A. Vandy

(4)

pass-book.

5. That the real depositor lodged a complaint and after having an inquiry on the said complaint, it was revealed that the said ^{account} amount was fraudulently transferred from Safdarganj sub-office to Ram Samhigghat and also that a sum of Rs.5950/- was also withdrawn fraudulently from the said account on 17-2-76. Had the petitioner challenged the difference in the signature available in the SB-10(b), with that of record at Barabanki and also called for pass-book and re-conciled the balance, the fraudulent withdrawal could have been averted. The petitioner also failed to send the intimation of transfer of the above ^{account} amount to Safdarganj on 13-2-1976.

6. That the petitioner was placed under suspension vide order dated 23-11-1976 and he was subsequently reinstated on 8-7-1977. The petitioner was charge-sheeted under rule 16 of the Central Civil Services (Classification, Control & Appeals) Rules, 1965 for violating the provisions of rule 442(1) read with

Ref. Vennip

(5)

rule 440(1) of the Post & Telegraphs Manual Volume VI Part II and rule 3^(II)(2) and rule 3^(III)(3) of the Central Civil Services (Conduct & Service) Rules, 1964 vide an order dated 20-6-1977.

7. That it is also pertinent to mention here that regarding the said fraudulent withdrawal a F.I.R. was lodged and a criminal case was registered against the petitioner including other persons and the original documents ~~of the pass-book~~ on the basis of which the said charge-sheet was issued, were lying in the custody of the Court, where the said criminal case was pending and as such the charge-sheet was dropped till the finalisation of the court case vide memo dated 10-12-1982. A photostat copy of the memo dated 10-12-1982 is being filed herewith and marked as ANNEXURE NO.C.A.1.

8. That after the finalisation of the court case on 7-1-1984 the petitioner was again charge-sheeted under rule 16 of the Central Civil Services (Classification, Control & Appeals) Rules, 1965 for the said offence and in response to the said charge-sheet the

R.A. Kumar

(6)

petitioner submitted an application requesting therein that the reply of the charge-sheet which the petitioner has submitted earlier in response of the earlier charge-sheet may be referred in its reply.

9. That after perusing his reply as well as other connected records, a penalty of ^{recovery} a sum of Rs.500/- was imposed on the petitioner and the period of suspension from 23-7-1976 to 8-7-1977 was ordered to be treated as leave due vide an order dated 16-1-1980.

10. That in fact the petitioner has taken a specific plea in his reply that the specimen signature of the depositor was not traceable in the Barabanki Head Post-office whereas the fact remains that the specimen signature of the depositor was available on the record of Barabanki Head office and the petitioner has not cared to discharge his duties honestly. Moreover, keeping in view the difference in the balance between SB-10(b) and Ledger card, it was the foremost duty of the petitioner to call for the pass-book to rectify the difference

RA name

(7)

before the transfer is effect but the petitioner has badly failed in discharging his duties and transferred the said ^{account} ~~amount~~ from Safdarganj to Ram Saranhighat. The said dereliction of duty of the petitioner has facilitated the actual offender who committed the fraud upon the department and as such he was punished for a penalty of a sum of Rs.500/- of recovery. In order to facilitate this Hon'ble Tribunal the photostat copy of rule 440 and 442(1) of the Post & Telegram Manual Volume VI Part II is being filed herewith and marked as ANNEXURE NO.C.A.2.

11. That the petitioner filed an appeal to the Director Postal Services, Lucknow against the aforesaid punishment order and the said appeal was decided confirming the penalty of recovery and modifying that the period of suspension will be treated as duty for all other purposes except the pay which should be restricted to the subsistence allowance already drawn by the applicant during his suspension.

12. That the petitioner again preferred petition against the order of the appellate authority to the

R.A. Kumar

(8)

Chairman Postal Services Board, New Delhi, which was also rejected vide an order dated 20-8-1986.

10. That the contents of paragraph nos.1, 2, 3 and 4 of the application need no comments.

14. That in reply to the contents of paragraph no.5 of the application it is submitted that the declaration which has been made in the para under reply, is absolutely wrong. As per the version of the petitioner mentioned at page no.5 of the paper-book, the petition of the petitioner was decided on 20-8-1986 and as such the petitioner could have referred the said petition by 19-8-1987 as the limitation for filing the petition in this Hon'ble Tribunal is only one year and the petitioner has filed the present application after the expiry of one year and as such the petition is time barred and is liable to be dismissed on this ground alone.

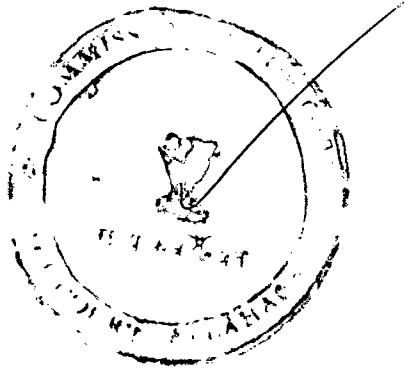
15. That the contents of paragraph no.6(i)

R.A. Veng

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of the application being matters of record, need no further comments.

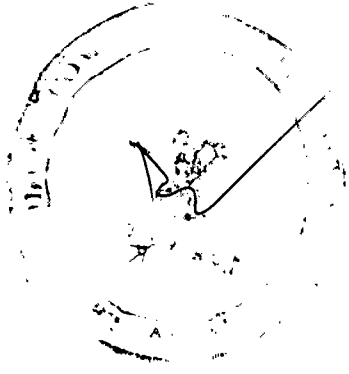
16. That the contents of paragraph no.6(ii) of the application are matters of record, except the assertion made in the para under reply that 'But How it would have been Averted is an Important question which neither the Supdt., The PDS nor the Chairman Postal Board has answered.' and also further assertions which have been made in the para under reply. As stated earlier, the petitioner has ^{not} discharged his duties according to the rules and he has [✓] not been vigilant while the transfer was being effected, which has facilitated the offenders who have withdrawn the amount fraudulently and in case he would have been vigilant and he would have verified the signatures and also followed the procedure laid down in rule 440(1) and 442(1) of the Posts & Telegraph Manual Volume VI Part II, the said fraud could not have been committed and the post office would not have been in the loss of the said amount. In fact keeping in view of the part which he played in the said commission of the fraud,



Ret. King

(10)

the minor punishment was given to him. In fact the petitioner is guilty of committing negligence in the said case. It is further submitted that rule 106 and 107 referred to in the para under reply, specifically states that the penalty of the recovery can be imposed only when it is established that the Government servant was responsible for a particular act and as stated above the petitioner was held responsible at least for not following the rules and not being vigilant while discharging his duties and particularly at the time when the said transfer was being effected, and as such by no stretch of imagination it can be said that the said rule has not been followed. The perusal of rule 204 and 204-A of the Post & Telegraph Manual Volume III, referred therein, would also go to show that in the case of the petitioner it has been fully followed. In fact only keeping in view of the reply of the petitioner in the said fraud, the said minor punishment was given to him. Had he been the principal offender, he would have been given a charge-sheet under rule 14, instead of rule 16. The applicant was found as a subsidiary offender during the



RA. V. Ramesh

(11)

preliminary inquiry as he did not follow the correct procedure in transferring the account from Safdarganj sub-office to Ram Samhi^{ghat} sub-office, and as such he was charged and only according to the rule the punishment was imposed on him. Moreover, in the circumstances mentioned above, the court will not interfere in the vicinity of the quantum of the punishment in normal course.

17. That the contents of paragraph no.6(iv) of the application are not correct and as such are denied. In fact the figure of the interest is mere a speculation whereas the actual interest during the year 1974-75 in the present case was Rs.353.70 and not Rs.303.75. The petitioner is explaining a lame excuse for his dereliction of duty, whereas the fact remains that he has not tallied the account of the ledger with that of pass-book and also with the SB-10(b). The duties of the Ledger Clerk have been specifically mentioned in rule 442(i) and there is no other explanation of the petitioner that why the said rule has not been followed.

A. A. Veng

(12)

18. That the contents of paragraph no.6(v) of the application are not correct and as such are denied. In fact the petitioner has not followed the correct rule of 440(1). In case the signatures are differed, unless the signatures are verified according to the terms of rule 440(1), the transfer could not have been given effect to. In the present case the wordings of the identification were not ~~followed~~ used as have mentioned in rule 440(1). The correct wording as is required for withdrawal is "the depositor is known to me and he has signed in my presence". But in the instant case, it was mentioned in SB-10(b) "I certify that the applicant-depositor has signed before me". In fact regarding the attestation of the signature of the depositor rule 425-A of the ^{said} Posts & Telegraph Manual specifically directs that the attestation has to be done in the following terms:-

"The depositor is known to me and has signed in my presence".

19. That the contents of paragraph no.6(vi)

Retd. name

(13)

of the application are not correct and as such are denied. It is absolutely wrong to allege that the petitioner has acted as per the rules. In fact in the criminal proceedings, the offence was tested and the matter has not been scrutinised that whether the infringement of the departmental rule has been committed or not. It cannot be said that in case the petitioner has been chosen to State witness, he is absolved from his responsibilities. In fact the perusal of his whole petition would go to show that he has not offered any explanation before this Hon'ble Tribunal that why the said provision of the Posts & Telegraph Manual Volume VI Part II have not been followed.

20. That the contents of paragraph no.6(vii) of the application are not correct and as such are denied. It is further submitted that the circular which has been issued on 31-12-1985 shall not be applicable in the case of the petitioner as the order of the punishment was passed earlier to the issuance of

R. A. Verma

(14)

the said circular i.e. on 31-5-1984. Moreover, the said circular does not speak about its effect retrospectively and as such the same shall be applicable in the subsequent cases and not in the earlier cases.

Rest of the assertions made in the para under reply are argumentative in nature and shall be suitably replied at the time of hearing of the petition.

21. That in reply to the contents of paragraph no.7 of the application it is stated that in view of the facts mentioned in the earlier paras of this counter affidavit, the petitioner is not entitled to the reliefs sought in the para under reply.

22. That the contents of paragraph nos.8, 9, 10, 11, 12 and 13 of the application need no comments.

That the contents of paragraph nos.1, 2 and 3 of this affidavit are true to my personal knowledge; those of paras nos.4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 (partly), and 22 are based on perusal of record; those of paragraph nos.20 (partly) and 21 are based

R.D. Kumar

(15)

legal advice; which I believe to be true that no part
of it is false and nothing material has been concealed.
SO HELP ME GOD.

.....R.A. Verma.....

(DEPONENT)

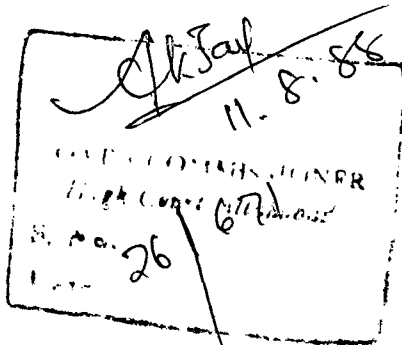
I, D.S. Chaubey, Clerk to Shri K.C. Sinha, Additional
Standing Counsel, Central Government, High Court, Allahabad,
do hereby declare that the person making this affidavit
and alleging himself to be Shri R.A. Verma is known
to me personally.

.....D.S. Chaubey.....

(CLERK)

Solemnly affirmed before me on this 11/k
day of August, 1988 at 9.00 AM A.M./P.M. by the deponent who
is identified by the Clerk.

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



OATH COMMISSIONER :

R.A. Verma

Annexure CA-1

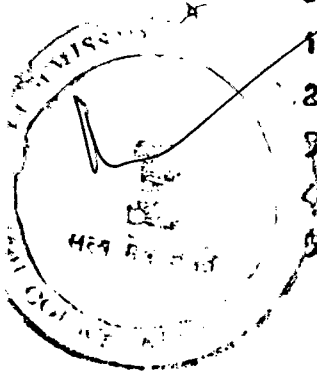
Indian Posts Telegraphs Department
Office of the Supt. of Post Office Personnel Adv. Mumbai-27001.
...

Home No - D/SP-2/76-77, Subst. Adv. No. 12.02.
...

In the case of Sri Mangal Pd. ... day is still
under trial in the court. The Deptl. proceedings should not be held
simultaneously with the court proceedings. As the charge sheet issued
under rule 16 of GOA (GA) dated 1959 to Sri Mangal Pd. SP J.B. Raj- H.E.
via this office no D/SP-2/76-77. Adv. No. 6.77 is hereby dropped
till the finalisation of court case.

Supt. of Post Offices,
Mumbai Adv. Mumbai-27001.
O/c - 10/11/67

- Copy to -
- 1. Sri Mangal Pd. SP J.B. Raj- H.E.
 - 2. PF of the official.
 - 3. CR File of the official.
 - 4. Vigilance staff.
 - 5. O/P/ O/P.



TC
.....

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Annexure CA-II

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CHAP. 8-1]

SAVINGS BANK ACCOUNTS

441-442

A remark regarding the issue of duplicate Advice of transfer should also be made in the ledger card under the dated signature of the postmaster.

(2) A separate record of all duplicate advices of transfer received should be kept in the transferee head office in a register for reference whenever necessary.

(3) In the event of the original advice of transfer being received through some source, the transferee head office will record thereon the remark "Account No. already opened on receipt of the duplicate advice of transfer" under the dated signature of the postmaster. The advice of transfer will be sent to the Control Organisation on the following day with the day's return.

(4) If the original advice of transfer is received in the transferee head office after 15 days of its despatch, this may be checked with the register of duplicate advices of transfer before opening the new account to see if the account has not already been opened on its duplicate advice of transfer.

TRANSFER OF AN ACCOUNT FROM THE OFFICE TO ANOTHER OFFICE UNDER THE SAME HEAD OFFICE

442. (1) Procedure in head office when the account is to be transferred to a D. O. not authorised to issue pass books independently.—When an account is to be transferred from one office to another not authorised to issue pass books independently under the same head office the pass book and the application for transfer along with two additional specimen signatures will be received by the head office either direct or from the sub office where the account stands entered in the list of documents. The ledger clerk should verify the balance as shown in the pass book with that in the ledger card, compare the signature on the application for transfer with specimen signature on record and if it agrees, take action to open the account in the new office. If the signature does not tally, action should be taken as detailed in Rule 440(i). The index to ledger cards of the new sub office should be referred to and the next account number assigned to this account making necessary corrections in the application card and in the ledger card of the old office. The corrected application card should be transferred to the card index cabinet of the new office and the ledger card should be taken out from the binder of the old office and placed in the binder of the new

office after the postmaster has checked the balance in the ledger card with the amount shown in the transfer application form and the pass book. Necessary remark should be given in the remarks column of the ledger card and the index to ledger cards of the old office about the transfer of the account. If the application for transfer is received direct and not through the office where the account stands an intimation to the effect "Account No.....of.....(depositor's name) transferred to.....S.O./B.O." should be sent to the office where the account stood through the SB slip in the case of a sub office and the B.O. slip in the case of a Branch Office in direct account with the Head Office. Two specimen signatures should be cut out from the transfer application form, date stamped and countersigned by the postmaster after noting the new account numbers in the slips. These slips along with the transfer application form should be sent to the new sub Office entered in the savings bank slip. In the savings bank slip the ledger clerk shall write the words "(name of the old office)Account No.....of.....(depositor's name) transferred to.....your office/branch office with balance of Rs..(words)". The pass book will after necessary entries be returned to the depositor through the office at which the account stood or the one to which it is transferred as may be indicated by the depositor in the application for transfer. The pass book will be sent to it entered in the SB/B.O. slip as the case may be. The application for transfer may be kept in Guard file in the personal custody of the A.P.M. and preserved for 3 years.

(2) **Procedure in head office when the account is to be transferred to a Sub Office authorised to issue pass books independently.**—The procedure to be followed in such cases will be the same except that the application for transfer will first be sent to the Sub Office concerned for noting the new account number. Further action for the transfer of the account in the Head Office will be taken only after the application for transfer is received back from the Sub Office with a new account number noted on the application.

3) **Procedure in Sub Offices not authorised to issue pass books independently.**—(i) In the pass book along with the application for transfer of the account is presented at the sub office where the account stands, the sub postmaster will follow the

procedure prescribed in rule 440 (9). If however the account stands at some other office under the head office, he will follow the procedure prescribed in rule 440(12). The pass book along with the application for transfer duly date-stamped will be forwarded to the head office entered in the list of documents.

(ii) If an application for transfer is received direct in the head office or through another sub office, the sub postmaster will receive an intimation from the head office in the savings bank slip about the transfer of the account. He should make necessary entries about the transfer against the relevant account in the savings bank ledger and the specimen signature book. If the account stood in a branch office, the intimation about the transfer should be sent through the branch office slip to the branch office who should be instructed to make necessary entries in the branch office journal and specimen signature book. The date of the last transaction in the account should also be indicated to the branch office to enable the branch office to trace the account in the Branch Office savings bank journal.

(iii) On receipt of the transfer application form with additional specimen signature counter-signed by the postmaster, the sub postmaster of the office to which the account has been transferred will take action as in rule 441(C) for opening the new account in the ledger. The transfer application form will be filed in a guard file which will be kept in the personal custody of the SPM and preserved for 3 years.

(iv) If the application form contains any note to the effect "Signature differs" action should be taken as laid down in Rule 441C(i).

(4) Procedure in Sub Offices authorized to issue pass books independently.—The application for transfer will be received from Head Office, duly entered in the S. B. slip. The sub postmaster will open a new account in his ledger. The new account number will be noted on the application form as well as on the specimen signature slip which will be received along with the application form from the Head Office. Necessary entries should be made in the register of A.Ts. received, the application form being treated as an A.T. for this purpose. The S/S slip should be pasted to the specimen signature book. The application form should be returned to the Head Office, duly entered in the list of documents. In the Head Office the application form will be kept in a separate guard book in the personal custody of the A.P.M. and preserved for 3 years.

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442-442A]

SAVINGS BANK ACCOUNTS

[CHAP. 8-I

(5) Procedure in the H.O. for transfers within the same H.O.
.....**Preparation of Journal.**—A combined local debit and credit journal in the form indicated below should be prepared and journal forwarded to the control organisation along with the day's return. The progress total of number and amount will be shown below the entries of the day. For this purpose the record of figures of the progressive totals will be kept in a separate register. Combined local debit credit transfer journal of ... Head Office for.....

Sl No.	Name of the S.O. from which transferred (in alphabetical order)	Account number of the transferring office	Binder number of the transferring office	Amount
1	2	3	4	5
<hr/>				
Signature of PM(SB) in charge of the transferring office	Name of the S.O. to which the account is transferred	Account number in the new office to which the account has been transferred	Binder number of the new office	Signature of the postmaster (SB) incharge of transferee office
6	7	8	9	10

**PREPARATION OF TRANSFER JOURNAL
FOR TRANSFER FROM ONE HO TO ANOTHER**

442-A. If the number of account to be entered in the journal of accounts received on transfer from/transferred to other Head Offices, necessitates preparation of more than one sheet of the journal, the number and the amount in each sheet should be carried over to the next sheet and the total number of accounts and the total amount should be shown in the last sheet of the journal. The progressive totals at the end of the day will be shown in the last sheet of the transfer journal. In the case of big Head Office separate transfer journals may be prepared by each group and a summary of the journals of all the groups showing the total number and amount should be signed by the

TR

11/11/20

(4) In the application for transfer of an account opened on behalf of a minor or a lunatic the certificate "Certified that the depositor is alive this day" should be given. In the case of an unmarried female minor depositor the words "and is unmarried" shall be added in the certificate. In the case of a married female minor, only the husband can apply for transfer as the minor's guardian.

(5) In the case of a joint account, all the depositors should sign the application for transfer.

(6) If a security deposit account is to be transferred, the depositor must produce a letter from the pledgee sanctioning the transfer. If the depositor is a postal official a letter from the pledgee sanctioning the transfer is not necessary when the transfer is confined to the same Circle. In such cases the order issued by a first class Postmaster, Superintendent or the head of the Circle transferring the official may be regarded as an authority, for the transfer of such account.

Note.—If the security is to be transferred to another Department of the Government, the original account should be closed and a new account opened.

(7) The depositor has to give additional specimen signatures in the transfer application form for the use of the transferee office or offices. The depositor should be requested to give one additional specimen signature if the account is to be transferred to another head office, two if the account is to be transferred to a sub office whether under the same or another head office and three if the account is to be transferred to a branch office.

TRANSFER OF AN ACCOUNT TO ANOTHER HEAD OFFICE OR TO A SUB OR BRANCH OFFICE UNDER ANOTHER HEAD OFFICE

440. (1) Procedure in Head Office.—If the account stands at a head office and if the application for transfer along with pass book is presented at the head office, the counter clerk should see that the restrictions laid down in rule 438 on the transfer of accounts are not attracted. He should impress date stamp on the application for transfer and compare the signature on the application with the specimen signature on record. If the signature does not tally with the specimen on record it should be got attested as provided for in the case of an application for withdrawal. In case the application has been presented through a messenger and the signature of the depositor cannot be obtained

for attestation, the transfer should be effected by the head office after giving the following remarks on the application for transfer:

"Signature does not agree. The account may be opened on transfer. Withdrawals to be allowed only after proper identification of the depositor."

(2) The application for transfer should then be transferred to the miscellaneous clerk who will maintain a register of "applications for transfers received". The register will be maintained in the form given at Appendix XX.

After making the entries in the register, the miscellaneous clerk should transfer the application for transfer to the ledger clerk.

(3) The ledger clerk should compare the balance in the pass book and the application for transfer with that in the ledger card, complete the entries in the pass book if the difference is due to some transaction or interest having not been entered in it to bring it upto date and correct the balance noted in the application for transfer. He should then remove the ledger card of the account from the binder and make an entry of closure in the ledger card. The balance to the credit of the depositor with the interest right upto the end of the preceding year should be shown with the remarks in red ink "Paid by transfer to(S.O.)/(B.O.) underH.O. on.....for the sum of Rs..... (words and figures)" in the ledger card. He should make an entry of the transfer in the journal of transfer S. B. to be prepared in duplicate. The daily and progressive totals upto the end of the day should be shown in both the copies of the Journal. If Government securities are held in the custody of the Accountant General on behalf of the depositor the remark "Government Securities holder" should also be written in the remarks column of the journal. An intimation should be sent to the Director of Audit and Accounts, Government Securities Section, Calcutta, giving the particulars of the Securities, the date of transfer and the name of the transferee head office.

NOTE: Separate transfer journals should be prepared for transfer to Head Offices in the same circle (Home transfer) and for transfer to Head Offices in other circles (Foreign transfer). The words "Home transfer" or "Foreign transfer", as the case may be, should be written prominently at the top of the journals. A rubber stamp as per specimen given in the margin should be affixed on the Foreign Transfer Journal to facilitate their sorting in the Central Pairing Office.

F
Name of
Circle

Before The Central Administrative Tribunal, Allahabad-1

O.A. Reg. No. 790 of 1988

Mangal Prasad versus U.O.I. & Others
Rejoinder

Parawise content of the applicant in the counter affidavit
filed by the Respondents is as follows :-

(1) Paras 1 to 3 - No comments.

(2) Para 4 - Denied. The applicant committed absolutely
no irregularity in effecting transfer of the
S.B. A/C in question from said Gur Pd. S.B. A/C holder
as vividly explained in sub para (1) of para
6 of the Paper Book application. The contents of
this sub para have also not been denied by the
respondents. There was no need to verify the
signature as per rule 442 as it was attested by
a local Advocate and that attestation had been
accepted by the SPH R.S.Ghat who was on the spot

(3) Para 5 - Denied. The applicant did not challenge the
signature of said Gur Pd. S.B. A/C holder
in question as the same had been attested by a
local Advocate & the attestation had been accepted
by the SPH R.S.Ghat. In accordance with the R rule
440(7) (ii) of PAT Manual Vol. VI part II read
with Rule 425A ibid. Supporting the signatures of
Sri Gur Pd. on the Transfer Application actually
did not tally with the respective signature on record
as per rule 442 read with rule 440(10) and 440
(7)(ii) it was the duty of the applicant to have
allowed transfer with a specific direction to
SPH R.S.Ghat that "If signature does not agree
the A/C is to be transferred and withdrawls to
be allowed only after proper identification of
the Depositor." This rule was literally followed
by the applicant as the SPH R.S.Ghat accepted
transfer of the A/C and allotted new No. only

R. D. Singh

Received Copy
@ Only
Chaturvik C. W.
24/7/88

after obtaining the proper identification of the A/C Holder. In this way the applicant is completely insured from all liabilities of fraudulent withdrawal. Differences in the Balances shown by the Head Office Ledger Card and that mentioned in the Transfer Application (Form SB 10(b)) is also well explained; if the Interest was added to the latter balance it would come at par with that of the Ledger Card.

- (4) Para 6 - Denied - The applicant was placed under suspension in gross contravention of GI, SPH letter No.43/56/64 - AVD dated 22.10.64 appearing as E.I. Decision No.2 One below Rule 10 of CCS(CCA) Rules on pp 11 & 12 of Swamy's compilation of Rules (1985 Edn.) In view of the rule cited above it was the exclusive responsibility of SPH R.S. that to have allowed withdrawals only after obtaining proper Identification. Any charge of contributory Negligence in allowing fraudulent withdrawal does in no way stand. As such the order of suspension was totally unwarranted.
- (5) Para 7 - Denied. The applicant had been a state witness in criminal case filed in the court.
- (6) Para 8 - The applicant was a state witness in the case. He had permitted the transfer of the A/C quite in accordance with the existing Rules as cited above in para 3 of this Rejoinder.
- (7) Para 9- Denied. Punishment of Recovery was grossly in contravention of Rule 106 of P&T Manual Vol. III.
- (8) Para 10 - Denied. The grounds for not comparing the signature with the specimen Signature available in the H.O. have been amply explained in para 3 above. It was also not warranted u/r 2251 of VOL.VI part II.
- (9) Paras 11 to 13 - No comments.

[Signature]

(10) Para 14 - In reply it is submitted that the applicant was not satisfied with the decision of the Hon'ble Chairman Postal Board, and, therefore, submitted a Memorial to the Hon'ble The President of India. As that Memorial remained unattended for full one year the applicant has filed the instant application before the Hon'ble Tribunal. This is perfectly in order and within Rules.

(11) Para 15 - No comments.

(12) Para 16 - In reply it is submitted that the applicant had been fully vigilant in the due discharge of his duties. In fact his duty is confined to two items of work only. Firstly to verify the last Balance of the Ledger Card with that of the Pass Book/Transfer application Book. This was done as explained in detail above. The second part of the duty was to compare the signature of A/C holder with that available in the specimen Signature Register's Signature. This duty too was carefully discharged as explained in Para 3 above of this Rejoinder. Here one thing deserves Special attention that the learned Respondents have again omitted to answer the most important question raised by the applicant as to how he could have averted the continuing of the fraud in question. The loss would have been averted ^{by the} however more vigilant the applicant would have been.

(13) Para 17 - The applicant is not able to answer this till he is given to see the original demand and the application for the transfer of 1/3 in form SB 10(b) in question. From the records

R. K. Sharma

From the records of his own the applicant reiterates to his stand that that the said two Balancess did tally.

(14) Para 18 - In reply it is submitted that the duty of accepting the identification of the A/C holder is as per Rule that of the SPM on the spot. The SPM R.S.Ghat on the spot did accept the A Identification. Slight change in the wordings of the Identification Certificate ^{has} ~~does~~ not change its sense. It was therefore neither warranted by any rule nor under any orders to have challenged that Identification quite out of way.

(15) Para 19 - Denied . To be a culprit and also to be a prosecution witness can go together as beyond imagination and beyond logic.

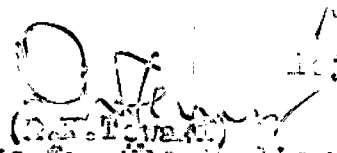
(16) Para 20 - The latter part of the para under reply has been deferred to be answered in the court at the time of Final Hearing.

(17) Para 21 - As the Respondents have miserably failed to controvert the allegations made by the applicant the latter is fully entitled to get the reliefs sought for.

I H VERIFICATION

I, Mangal Pd. the applicant of this case do hereby verify that the contents of 1 to 17 above are true to the best of my knowledge and belief. Nothing Material has been concealed.

dated 19-7-1989


(Adv. T. S. Ghat)
Advocate for the Applicant
154, Purneshwar Nagar, Allahabad-20

Mangal Pd.
Applicant.

The Central Administrative Tribunal,
Allahabad

O.A. Regn. No. ⁷⁹⁰~~297~~ of 1988

Mangal Pd. v/s Supdt Posts
Barabanki & Others

Application

Copy No. II

Application u/E 19 of Administrative Tribunal Act, 1985

Dated on 24-6-1986

Regi. No.

of 88

Signature of J.A.(v)

In the Central Administrative Tribunal, Allahabad-I.

Between

Respondent

.....

Applicant

A N D

(1) Chairman Postal
Board New Delhi

.....

Respondents

(2) PWS New Delhi

I N D E X

Sl. No.	Annexure No.	Particulars of Documents	Page No.
1	1	Application	2 to 9
2	1-1	Order of Manager	10 to 11
3	1-2	Defence (1-17) 1986	12 to 14
4	1-3	Memorandum dated 14-1-86	15 to 21
5	1-4	Application dated 24-7-86	22 to 24
6	1-5	Order of Chairman dated 27-7-86	25 to 46
7	1-6	Decision of the Tribunal dated 28-2-87 & 13-3-87	47 to 59
8	1-7	Memorandum to the President dated 6-1-1987	60 to 61
9	1-8	Memorandum dated 14-3-87	62

R.L.S.

K. TSW. 71

Advocate

10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

(K. TSW. 71)

Allahabad-I.

4/12/86

Details of Application

1- Particulars of the Applicant :—

(i) Name of the Applicant

(ii) Father's Name

(iii) Designation &

Office in which employed

(iv) Office Address

(v) Address for service

of all notices

2- Particulars of the Respondents :—

(i) Name &/Or Designation

(ii) Official Address

(iii) Address for service

of all notices

3- Particulars of the order against which application is made :—

(i) Order No.

(ii) Date

(iii) Passed by

(iv) Subject in brief

Recovery from Pay (in the name of)
only pay for the period of 1-1-51 to 31-12-51

4- Jurisdiction of the Tribunal

The applicant declares that the subject matter of the order against which he wants redressal is within the Jurisdiction of the Tribunal.

5- Limitation

The applicant further declares that the application is within the limitation prescribed in section 21 of the Administrative Tribunal Act, 1985.

6- Facts of the case

The facts of the case are given below :—

R. S. Jaiswal

M. S. Jaiswal

С. И. Д. 100. 100. 100.

Abstract

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100-443887-100

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 obtain the necessary funds to carry out its obligations
 under the agreement is no excuse for any objection
 to the Government's failure to carry out its obligations.
 The Government is responsible for the failure to carry out
 its obligations under the agreement. The Government is
 responsible for the failure to carry out its obligations.

[illegible][illegible]

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10. The first of these is the fact that the system of the present is
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Phyllis

Harper P.C. -

8- Interim order, if prayed for— NIL

9- Details of the remedies exhausted

The applicant declares that he has availed of all the remedies available to him under relevant service rules—

He submitted an appeal to the Director, which was rejected on 31-5-84. He then submitted a petition to the Chairman Postal Board on New Delhi which was rejected on 22-8-85 & 26-8-86. He then submitted a memorandum to the Hon'ble the President of India on 5-1-87 which remained unattended hence he is submitting this application.

10- Matter not pending with any other court etc. :-

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law, or any other authority or any other bench of the Tribunal.

11- Particulars of the Postal Order in respect of the application fee :-

(i) No. of I. P. O. DD4/227336

(ii) Name of Issuing P. O. Allahabad H.P.O.

(iii) Date 26-5-88

(iv) P. O. at which payable

Allahabad H. P. O.

12- Index- An Index of the documents to be relied upon is enclosed with each copy of this application

13- List of enclosures :-

(i) Vakalatnama

(ii) one I. P. O. for Rs. 50/-

(iii) 09 documents to be relied upon

In Verification

I, Shri Prasad

S/O Shri Dada Prasad

aged 50

years R/O Vill. H. P. O. S. D. B. and working as S. D. B. I hereby verify that the contents from 1 to 13 are true to my personal knowledge & belief and that I have not suppressed any material facts.

Place- Allahabad

Date 26/6/1988.

To

The Registrar, Central Administrative Tribunal,
Allahabad-211001

Signature of applicant

K. TEWARI

Advocate

104, P. O. Naga
(Allahabad)
Allahabad-16

15
Annexure No. A-1

STATEMENT OF IMPURATION OF MISCONDUCT FRAMED AGAINST
SRI MANGAL PRASAD S.P.M. BARABANKI J.B. RAJ BARABANKI.

Sri Mangal Prasad S.P.M. J.B. Raj Barabanki while working as Ledger Clerk Barabanki H.O. on 15-2-1976 received SB-10(b) in respect of Safdarganj SB A/c No. 60215 for transferring this account to Han Sanohi Chat P.O. through S.P.M. R.S. Chat P.O. The aforesaid account was already transferred by the S.P.M. R.S. Chat and a new account number 251771 was noted on SB-10(b). Sri Mangal Prasad failed to notice that the above account was transferred by S.P.M. R.S. Chat without getting its balance verified from H.O. and without obtaining permission of H.O. in this regard. The SB-10(b) mentioned above was not accompanied by the relevant pass book. The said Sri Mangal Prasad failed to challenge it and to call for pass book for verification of balance. He also failed to compare the signature of so called depositor available on SB-10(b) with that on record on the plea that Specimen signature was not traceable while Specimen signature was available at Barabanki H.O.. The said Sri Mangal Prasad did not trace it but at the time of transferring the account to R.S. Chat otherwise the difference in signature of depositor could have been detected and subsequent fraudulent withdrawal of

Rs. 5950/- from this account dated 17-2-1976 would have been averted. Moreover in S.B. 10(b) the balance was noted as Rs. 5954.70 paise, Sri Mangal Prasad transferred the account with a balance of Rs. 6268.45 paise which was the ledger balance. The said Sri Mangal Prasad therefore failed to call for the pass book to rectify the difference in balance. The said Sri Mangal Prasad also failed to sent intimation of transfer of account to Safdarganj, P.O. on 13-2-1976. Thus the said Sri Mangal Prasad while working as Ledger Clerk Barabanki H.O. failed to follow the prescribed procedure in transferring Safdarganj Barabanki A/c No. 60215 to R.P. Chat P.O., and violated the provisions of rule 442(1) read with Rule 440 (1) of P & T (Man. Vol. VI Part II)

The said Sri Mangal Prasad also failed to maintain devotion to duty and did an act unbecoming of Govt. Servant and thereby violated the provisions of rule 3 (ii) and 3 (iii) of C.C.S. (Conduct) Rules 1964.

Headq. of post offices,
Barabanki Division, Barabanki.
223 001.

TRUE COPY
R. K. Singh
(in charge of office)

- 12 -
Annexure A-2

From:

Mangal Prasad,
Sub Postmaster -
Jahangirabad Raj,
Barabanki.

To,

The Superintendent of Post Offices,
Barabanki Division,
Barabanki.

Subject: Disciplinary proceeding under rule 16 of
C.C.S. (C.C.A.) Rule 1965 against
Sri Mangal Prasad the then Ledger Clerk
III, Barabanki Head Post Office.

Reference D.O.No. - F/S.B.-5/76-77, dated 23.11.1976.

Sir,

With due respect, I beg to say the following
for your kind consideration and sympathetic orders.

- 1- That I (Mangal Prasad) was working at
Barabanki H.O. as L.C. III on 13-2-1976.
One SBA/C No.-60215 standing at Safadarganj
P.O. was transferred to Ram Sanahi Ghat while
I was working as Ledger Clerk SO Group.
This A/C was received by Ledger clerk IV,
S.P.M. Ram Sanahi Ghat, completing all the
formalities on S.B. 10(b), submitted to
Barabanki H.O. on the basis of witness, the
S.P.M. R.S. Ghat has accepted the signature
of depositor Sri Gur Prasad.

(Contd...2...)

13

-2-

As such there was no doubt about the difference in specimen Signature of depositor of depositor. I being the Ledger clerk transfer of the account from Saidar Ganj, P.O. to R.S. Chat P.O. preparing the local transfer journal and handover to Asstt. Postmaster for onward transmission after necessary scrutiny and signature. So far concerned the Specimen Signature of the depositor which was kept by the Sri Shri Krishna Srivastava the then Postmaster Barabanki H.O. In this circumstances I could not verify.

2- That charge framed against me that I failed to notice that the account was transferred by Sub Postmaster Ramzanah ghat without getting its balance verified from Barabanki H.O. and without obtaining permission of Barabanki H.O. is baseless. When the account was received I prepared the local transfer journal and handover to the Asstt. Postmaster which was accepted. A.F.M. (SE) in his written statement has accepted that the local transfer journal was sent to SECO for necessary action.

3- That the account was already transferred from Saidar Ganj P.O. to R.S. Chat allotting the new No. 231-771 by the Sub Postmaster R.S. Chat. It is also said that the withdrawal for Rs. 3950/- was made by the Sub Postmaster R.S. Chat on the proper identification. The difference in Specimen Signature is rectified only on the basis of identification on which, has been made by the S.P.M. R.S. Chat and he may sole responsible for

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-3-

fraudulent withdrawal.

4. That I was ledger clerk., I was to transfer the account taking the Ledger balance and not the balance noted on S.D. 10(b). My duty was to transfer the account and not to verify the reality of the withdrawal. It was the duty of the Ledger Clerk who dealt the R.S.Ghat P.O. as well as the Sub Post Master R.S.Ghat.

5. That the case was referred to C.B.I. for enquiry in which I have been exonerated from all the charges. It is also said that C.B.I. has nominated a Government Witness, as the case is under Court of Law.

6- That Sri S.B. Srivastava the, then learned Superintendent of Post Offices Barabanki placed me under a suspension being prejudice to me.

The case was not such, as I may be placed under suspension.

7- That In my application dated 27-7-1977, 1.2.1978 and 18-4-1978, I requested for certain documents which were neither given to me nor shown to prepare the defence. It clearly indicates that the Department wants to press me unnecessarily.

8- That I pray your kind honour to see my case with sympathetic view and exonerate me from all charges and suspension period may kindly be treated duty for all purposes.

du 17/1/82

TRUE COPY
Witnessed
(Signature)
(Signature)

- 15 -
Annexure No. A-3

Indian P & T Department.

C/o The Supdt. of Post Offices Barabanki dn.225 001.

Memo No.: F/SB-5/76-77, dated:at BEK the, 316-1-84

Shri Mangal Prasad S.P.N. JB Haj (BEK) was informed vide this office memo of even no. dtd. 7/1/1984, that it was proposed to take action against him under rule 16 of CC² (CCA) rules, 1965 on the allegations reproduced below :-

Sri Mangal Prasad S.P.N. JB Haj (BEK) while working as ledger clerk BEK H.O. on 13-2-1976 received SB-10(b) in respect of Jaidarganj SB A/C No. 60215 for transferring this account to Ram Sanehighat P.O. through S.P.N. R.S. Chit P.O. Theforesaid ~~Exm~~ a/c was already transferred by the S.P.N. R.S. Gjat and a new a/c number 231771 was noted on SB-10(b). Shri Mangal Prasad failed to notice that the above a/c was transferred by S.P.N. R.S. Chit without getting balance verified from H.O. and without obtaining permission of H.O. in this regard. The SB-10(b) mentioned above was not accompanied by the relevant papers. The said Shri Mangal Prasad failed to challenge it and to call for pass book re-verification of balance and also failed to compare the signature of so called

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depositor available on SB-10(b) with that on record on the plea of that specimen signature was not traceable, while specimen signature was available at BBH H.O. The said Sri Mangal Pd. did not trace it out at the time of transferring the a/c to R-S Ghat otherwise the difference in signature of depositor could have been detected, and subsequent fraudulent w/d Rs. 5950/- from this account dated 17-2-76 would have been averted. Moreover in SB 10(b) the balance was noted as Rs. 5964/- & 70 paise. Sri Mangal Pd. transferred the a/c with a balance of Rs. 6268.45 which was the ledger balance. The said Sri Mangal Prasad therefore failed to call for the pass book to rectify the difference in balance. The said Sri Mangal Prasad also failed to sent intimation of transfer of account to Safdarganj P.D. on 15-2-1976. Thus said Sri Mangal Pd. while working as Ledger clerk Darabanki H.O. failed to follow the prescribed procedure, in transferring Safdarganj (BBH) A/c No. 60215 to R-S Ghat P.O. and violated the provision of rule 442(1) read with rule 440 (1) of P & T Man. Vol. VII para-II.

The said Sri Mangal Prasad also failed to maintain devotion to duty and did an act unbecoming of Government Servant and thereby violated the provision of rule 3 (ii) and 3 (iii) of CCS (Conduct) Rules, 1964."

The similar charge-sheet originally issued under Memo No. even, dated 20-8-77 of which defence was submitted by the official on 17-9-1982 which could not be decided being the same case was under trial in the court and therefore it was dropped vide memo no. even dated, 10-12-1982 till finalisation of court case. The court case was decided on 28-2-1983 and after receipt of documents the aforesaid fresh charge-sheet was issued on 7-1-1984 which was perhaps received by Shri Mangal Prasad. On 13-1-1984, as he submitted an application on 13-1-1984 requesting to treat his defence dated 17-9-1982 to be valid for this charge-sheet also. The request is acceded to and I am inclined to decide the case on the strength of the said defence, dated 17-9-1982.

I gone through the charge-sheet defence and documents connected with the case very carefully. In his defence Shri Mangal Prasad has stated that he was working as LC-III on 15-2-1976 and transfer in case of Saidarganj SB-XII(b) a/c No. 60215 was received by him through LC-IV, who was dealing with same Sanahighat P.O. duly completed with all formalities on Sb-10(b) and with accepted signatures of Shri Gur Prasad by the S.P.N. Chat. So he having no doubt about the difference in signatures of the depositor transferred the a/c from Saidarganj to R.S.

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That he prepared the local transfer journal and hand-
over it to the A.P.H. for onward submission to
SECO after necessary scrutiny and signature. The
comparision of signatures of SB-10(b) could not be
done as the specimen signature of the depositor were
kept by Sri P.K. Srivastava the then P.H. B.M. These
arguments of Sri Mangal Prasad can not save him
from his own responsibility as it was incumbent on
him to notice the irregularities of the S.P.M.R.S.
That who transferred the a/c without getting the
balance verified from A.O. & also without obtaining
the permission of the A.O. and further no pass book was
accompanying with SB -10(b) in which balance
was shown as Rs. 5964-70 paise against balance at
credit in the ledger card as 6262.45. In this way
it was but necessary to call for the FB immediately to
rectify the difference in balance first and till
then the transfer of a/c should have kept held
in ~~bank~~ avoyance. To say in the defence that the
charges are baseless is very surprising and mere prepa-
ration of local transfer journal on receipt of
S.B. 10(b) handing over it to A.P.H. (SB) & acceptance
of its receipt of SB-10(b) ~~implying~~ ~~that~~ ~~it~~ by
A.P.H. in his v/s can not be taken as granted that ~~it~~

all was done correctly by the S.P.M. R.S.Ghat
In fact the said Sri Mangal Prasad, should have not
taken the irregularities of the S.P.M. R.S.Ghat S.O.
lightly and the a/c should have not been transferred
till receipt of the PB from the S.P.M. R.S.Ghat and
its net difference in balance rectified.

The said Sri Mangal Prasad in his defence
has further contended that since the a/c was already tra-
nsferred by S.P.M. R.S.Ghat allotting new a/c no 231771
and who made the w/d for Rs. 5950/- from it on proper
identification, may only be held solely responsible
for fraudulent w/d. This contention is not tenable
because this withdrawal could have certainly been
averted, had he been little vigilant to the serious
omission/irregularities of the S.P.M. R.S.Ghat and had
had he challenged these to the S.P.M. the very day on
13-2-1976 as there has been he challenged these
to the S.P.M. the very day on 15-2-1976 as there has
been a gap of 4 days in between the date of allowing
transfer of a/c on 13-2-1976 and date of fraudulent
w/d of 5950/- from the a/c on 17-2-76. Whereas the
objection would have reached to the S.P.M. atleast
upto 15-2-1976 had he sent by Sri Mangal Prasad.

His further plea that as a ledger clerk he

was to transfer the a/c taking ledger balance and
 Not of SB 10(b) is not supported by any rule as it
 was his foremost duty not to transfer the a/c unless the
 the PB was received by him. Hence in balance not
 rectified. His assertion that he is not guilty of
 the charge as he was exonerated by the CBI and he
 was made witness Govt. witness, but it is meaningless
 in view of the fact that CBI/Police has to investigate
 criminal aspects and not legal lapses. His claim that
 that he applied for not to supply of certain documents
 for preparation of defence is not acceptable as none of
 of his applications dated 21-7-1977, 1.2.1978 and 16-4-78
 appears to have been received in this office and are
 not available in this office file.

From the aforesaid findings, the charges levelled
 against Sri Mangal Prasad, stand fully proved and his
 lapse are directly attributable to the aforesaid frau-
 dulent withdrawal and therefore deserves for severe
 action to be taken against him. However taking into
 consideration the quantum of the lapses committed by
 Sri Mangal Prasad in this charge on his duties as
 ledger clerk, the undersigned hereby order that a sum
 of 500/- (Rs. five hundred only) being his share of
 total loss should be recovered from the pay of the
 official in ten equal monthly instalments of Rs. 50/-

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(L.F. Singer.)

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Adm. Serv. Div.
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Annexure No. A-1

Indian posts and Telegraphs Department.

Office of the Director Postal Services, Lucknow

Regn.

Memo No. RDL/APP-17/84/1B Dated at LN the 31-5-1984.

This is an appeal dated 9-5-1984 from Shri Mangal Prasad S.P.M. J.B. Rai, Barabanki Postal Division submitted against the orders of punishment of recovery of Rs. 500/- and also treating the period of suspension as leave issued vide S.P.Os. Barabanki Memo No. F/SE-5/76-77 dated 16-1-1984.

2- The appellant was issued a charge sheet under Rule 16 of CCS (CCA) Rules, 1965 on 7-1-1984 for contravention of Rule 442 (1) read with Rule 440 (1) of P & T Man. Vol. VI part II. The appellant while working as Ledger Clerk on 13-3-1976 in Barabanki H.O. received SB 10(b) in r/o Saidarganj SB account No. 60215 for transfer to Ram Sanahi Chat through S.P.M. Ram Sanahi Chat. The above account was already transferred by the S.P.M. Ram Sanahi Chat & a new account number 251771 was noted on SB 10(b). The appellant failed to ~~take~~ notice that the above account was transferred by the S.P.M. R.S. Chat without getting its balance verified and obtaining prior permission from Barabanki H.O. The pass Book was also not received alongwith the S.B. 10(b) from. He also did not tally the signature of the depositor on record but accepted in toto the identification which was wrongly worded by an Advocate and verified by the S.P.M. Later on the S.P.M. fraudulently withdrew Rs. 5950/- from this account on 17-2-1976.

3- The appellant in his appeal has challenged that there was no proper ground for imposing recovery from his pay. He has also mentioned that the balance of the account when compared from the ledger of the H.O. and amount noted in SB 10(b) was tallying after adding interest. He also says that the S.P.M. was with him in his rights to have allotted the account number in advance and this does not mean that he has transferred the account at R.S. Chat.

4- The appellant has also stated that his suspension period was treated as period spent on leave without his consent.

5- I have seen the entire case and it is clear that the appellant has accepted in toto the identification by an Advocate and the identification was further verified by the S.P.M. Identification was also not properly worded which was not challenged by the appellant. On subsequent enquiries the so called identifier could not be traced. The appellant should have doubted and taken the pains to have compared the signature specially when the identification was not in the prescribed wordings. If there was difference in the balance, he should have also taken action to call for the pass book for adding interest because the interest was not added in the pass book. It was the stage when the fake identification could have been noticed. Because of the lapse of the official

the Government had suffered loss because the S.P.M. R.S. Ghat had subsequently withdrawn Rs. 5950/- from ~~this~~ this account on 17-2-1976. I, therefore, find the official's negligence directly responsible towards the misappropriation of amount by the S.P.M. R.S. Ghat and hold the orders of recovery imposed on the official good.

6. With regard to the appellant's another plea that the entire period of suspension has been treated as E.L. without his consent, I concede that the appellant's version is right and his consent before deciding the period should have been obtained as held in FR 54(5). The orders of the S.P.Os. with regard to treating the period of leave are, therefore, not valid. As the official has not been exonerated but the punishment of recovery has been imposed on him, it would be proper if the period of treated duty for all other purposes except pay which should be restricted to the subsistence allowance already drawn by the appellant while under suspension.

TRUE COPY
[Signature]
(A. K. Tiwari Advo)

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

- 857 -
Annexure A-5

To,

The Chief Man,
Posts and Telegraphs Board,
New Delhi.

Sub:- Petition against the order of Director
Postal services Lucknow Region vide No.
MDI/APP -17/84/D dated 31-5-1984 received
from S. Post Barabanki on 8-6-1984 rejecting
the appeal preferred against the order of
Supt. Post Offices, Barabanki imposing
a penalty of recovery of Rs. 500/- on
Mangal Prasad S.P.N. Jhangirabad Raj
Barabanki (ii) treating the period of
suspension as leave due vide Memo No. F/SB-5/76-77
dated 16-1-1984 (Copy enclosed as Annexure
AA & B).

Sir,

The abovenamed petitioner begs to submit
as under :-

Facts of the case in brief are that the
petitioner was working as S.O. S.D.Ledger Clerk III
Barabanki H.O. in Feb, 1976. Pandarganj, S.O. was in
the branch of petitioner. Ram Sanahi Ghat S.O. was
in with S.O.Ledger clerk IV. SB 10(b) for transfer
of Pandarganj SB 1/C No. 60215 to Ram Sanahi Ghat S.O.
under same Barabanki H.O. was presented at Ram Sanahi
Ghat S.O. on 10-2-1976. Ram Sanahighat S.O. was autho-
rised to issue Pass book independently. The S.P.N.
got identification of depositor and send the SB 10(b)
to Barabanki H.O. and allotted new number of his

office to the said account S.D. 10(b) with new number was received by S.O.-D. Ledger Clerk IV who transferred the same to petitioner. The petitioner verified the particulars and prepared the combined Debit/Credit journal and placed it before the A.P.M. who signed it and was submitted to S.D. C.O. Barabanki.

2- A withdrawal of Rs. 5950/- took place on 17-2-1976 from the aforesaid SB A/C at Ram Sanehi Ghat after being transferred. Later on it was discovered that said withdrawal was fraudulent.

3- Although the petitioner had no concern with the aforesaid withdrawal as Ram Sanehi Ghat S.O. was not dealt with by petitioner. The Supdt. Post Offices, Lucknow (M) suspended the appellant vide Memo No F/SB-5/76-77 dated 23-11-1976 when the petitioner submitted to Supdt. Post Offices Lucknow (M) that suspension and its continuation was unjustified as the chargesheet served vide Memo No. of even No. F/SB-5/76-77 dated 20-6-1977 i.e., after 7 months of suspension. The petitioner was reinstated on 8-7-1977.

4- The case was also reported to police who made enquiries. The petitioner requested the Supdt. Post Offices Barabanki to supply copies of documents vide application dated 21-7-1977 (copy enclosed as Annexure

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The petitioner was informed vide letter No. even dated 20-11-1977 that documents at serial No.1 to 3, 8, 10, 14 are irrelevant. The petitioner was thus forced to submit defence on 17-9-1982. (Copy attached as Annexure 'D'). The Supdt. Post Offices on receipt of defence made the following order vide No. F/SD-5/76-77 dated 10-12-1982.

As the case of Shri Mangal Prasad S.P.M. J.B. Raj is still under trial in the Court, the departmental proceedings should not be held simultaneously with the court proceedings. So the charge sheet issued under rule 16 of the CCS(CCA) Rules 1965 to Shri Mangal Pr. S.P.M. J.B. Raj vide this office Memo No. F/SD-5/76-77 dated 20-6-1977 is hereby dropped till the finalisation of the Court Case.

5- On 7-1-1984 the Supdt. Post Offices Barabanki issued a chargesheet vide memo No. F/SE-5/76-77 dated 7-1-1984 with similar allegation as was done on 20-6-1977. The Statement of Imputation are reproduced below :-

Shri Mangal Prasad S.P.M. J.B. Raj Barabanki while working as ledger clerk Barabanki H.O. on 13-2-1976 received SB-10(b) in respect of Safdarganj SDA/C No. 60215 for transferring this account to Ram Sanchighat P.O. through S.P.M. R.S. Ghat P.O. The aforesaid account was already transferred by the S.P.M. R.S. Ghat and a new account number 231771 was noted

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on SB 10(b). Shri Mangal Prasad failed to notice that the above account was transferred by S.P.M. R.S. Chat without getting its balance verified from H.O. and without obtaining permission of H.O. in this regard. The SB-10(b) mentioned above was not accompanied by the relevant pass book. The said Shri Mangal Prasad failed to challenge it and to call for pass book for verification of balance. He also failed to compare the signature of so called depositor available on SB-10(b) with that on record on the plea that specimen signature was not traceable while specimen signature was available at Barabanki H.O. The said Shri Mangal Prasad did not trace it out at the time of transferring the account to R.S. Chat otherwise the difference in signature of depositor could have been detected and subsequent fraudulent withdrawal of Rs. 5950/- from this account dated 17-2-1976 would have been averted. Moreover in SB-10(b) the balance was noted as Rs. 5954-70 paise. Shri Mangal Prasad transferred the account with a balance of Rs. 6268-45 which was the ledger balance. The said Shri Mangal Prasad therefore failed to call for the pass book to rectify the difference in balance. The said Shri Mangal Prasad also failed to send intimation of transfer of account to Saldarganj S.O. on 13-2-76. Thus the said Shri Mangal Prasad while working as Ledger Clerk Barabanki H.O. failed to follow the prescribed procedure in transferring saldarganj Barabanki A/o No. 60215 to R.S. Chat P.O. and violated

the provisions of Rule 442(1) read with Rule 440 (1) of P & T Man. Vol. VI Part II.

The old Sri Mangal Prasad also failed to maintain absolute devotion to duty and did an act unbecoming of Govt. Servant and thereby violated the provisions of rule 3 (ii) & 3 (iii) of C.C.S. (Conduct) Rules 1964.

6- The petitioner submitted his defence (Copy enclosed as Annexure (E)). The S. Post Darabanki imposed the penalty & did not consider the case objectively.

7- Appeal was preferred to D.P.S. Lucknow Region on 9-3-1984 but the same has been rejected on 31-5-1984 and communicated on 8-6-1984.

8- The petition is submitted on the following grounds :-

1. GROUNDS OF PETITION.

The petitioner most respectfully invites your kind attention to the following relevant paras of D.G. P, & T Letter No. 114/176/78-DISC II dated 13-2-1981 incorporated as Govt. of India Instruction No. 27 below rule 11 of the CCS (CCA) rules 1965 at page 50 and 51 in Secy's compilation of CCS(CCA) Rules (4933 Edition) sub rule (b) be referred.

" It should be clearly understood by all the disciplinary authorities that while an official can be punished for good & sufficient reasons the penalty of recovery can be awarded only if the lapses on his part have either led to the commiss-

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tion of fraud or misappropriation or frustrated the enquiries as a result of which it has not been possible to locate the real culprit. It is therefore obligatory that the chargesheet should be quite elaborate and should not only indicate clearly the nature of lapses on the part of particular official but also indicate the modus operandi of fraud and their particulars and how it can be alleged that but for the lapses on the part of official the fraud or misappropriation could be avoided or that successful enquiries could be made to locate the stage at which the particular fraud had been committed by a particular person. This will enable the accused not only to submit a defence against the allegation brought against him but also to explain how the lapses had not contributed to loss in any manner. The disciplinary authority is also required to give a clear finding in the punishment order on both these points. If it is not done the order awarding the penalty of recovery will be liable to be set aside".

The general condition laid down in rule 106, 107 and 111 of P & T Manual Volume III is as under :-

" In the case of proceedings relating to recovery of pecuniary losses caused to the Govt. by negligence or breach of orders by Govt. Servant, the penalty of recovery can be imposed only when it is established that the Govt. Servant was responsible

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for a particular act or acts of negligence or breach of orders or rules and that such negligence or breach caused the loss.

In the case of loss caused to the Govt. the competent disciplinary authority should correctly assess in a realistic manner the contributory negligence on the part of an officer and while determining any omission or lapses on the part of the officer the bearing of such lapses on the loss considered.

Rule 16 of CCS (CCS) Rules envisages reasonable opportunity as well as seen from para 1 (a). The reasonable opportunity means that Govt. official should be afforded opportunity to adduce evidence in his defence.

The Supdt. Post Office Barabanki has mentioned the following lapses on the part of appellant in the statement of imputation.

2(1) He also failed to compare the signature of the so called depositor available on SB 10 (b) with that on record on the plea that specimen signature was not traceable while specimen signature was available at Barabanki. The said Shri Mangal Prasad did not trace it out at the time of transferring the A/C to Ram Panshi that otherwise the difference in signature of depositor would have been detected.

It may be noted that it was never alleged

that signature of the depositor on SB 10(b) and specimen signature in H.C. differs but even then it was alleged that difference in signature could have been detected. However, the allegation and the findings of Supdt. Post Offices Barabanki that had the signature on SB 10(b) be compared fraudulent withdrawal would have averted is perverse.

SB 10-(b) will show that the signature of the depositor was attested by Shri A.B. Kidwai Advocate, and it was countersigned by the Sub Postmaster. Even if there would have difference in the signature of depositor appearing on SB-10(b) and SB-3 (Index card, specimen signature) the account was to be transferred because the depositor was identified.

" The D.C. P & T . New Delhi letter No. 5-10/74-SB dated 10-2-1975 lays down as under :-

" If the signature does not tally with specimen on record it should be got attested as provided for in the case of application for withdrawal. In case the application has been presented through messenger and the signature of depositor can not be obtained for attestation the transfer should be effected by Head Office after giving the following remarks on the application for transfer.

" Signature does not agree. The account may be opened on transfer withdrawal to be allowed only after proper identification of the depositor."

In the present case the depositor was identified by Shri A.B. Kidwai Vakil and the Signature of depositor was attested by said Shri A.B. Kidwai.

On his identification attestation of signature the S.P.M. Ram Sanchi that countersigned the signature of depositor. In these circumstances the finding that fraudulent withdrawal of Rs. 5950/- on 17-2-76 at Ram Sanchi that would have averted if the petitioner would have compared the signature of SB 10(b) with specimen on record is perverse, capricious and unreasonable. No recovery could be made on account of this alleged omission which was not required when the signature of deposit or was already attested.

(ii) The aforesaid account was already transferred by S.P.M. Ram Sanchi that and new A/C No. was noted on SB-10(b) Shri Mangal Prasad failed to notice that the above account was transferred by S.P.M. Sanchi that without getting the balance verified from H.O. and without obtaining permission of H.O. in this regard. The S. B. 10(b) mentioned above was not accompanied by the relevant pass book, Shri Mangal Prasad failed to challenge it and to call for the pass book for verification of balance."

In this connection the supdt. Post Offices failed to appraise that the balance of the pass book A.C. 5964-70 was verified by the S.P.M. Ram Sanchi that from the pass book presented by the depositor applying for the transfer. This pass book was deposited in the court of Chief Judicial Magistrate Barabanki on 1.11.75 in a bail case. The interest was not added in the pass book. In the ledger card the interest was added and the balance was Rs. 6268.15. Thus there was no difference in the balance and no rectification

was necessary.

The supdt. Post Office Barabanki has failed to take into consideration that were allotment of number by the Sub Post Master Ram Sanhighat on SB 10(b) does not amount that account was opened there. He failed, to take into consideration the rules and procedure on the subject. Even if SB 10(b) is received from any other office than office to which transfer is desired, it is to be sent to the later office for allotment of number and thereafter transfer of account to said office is effected. This is rule and procedure when the account is to be transferred to a departmental Sub Office authorised to issue pass book independently. The Supdt. of Barabanki has twisted the facts and ignored the rules and procedure while alleging and coming to finding that by allotment and noting the number of S.D. A/C allotted in his office the account was already opened by S.P.M. Ram Sanhighat that the petitioner failed to challenge it. It can not be imagined that while setting at Barabanki the petitioner would have known from number allotted on SB-10(b) that account was stood opened. Even if SB-10(b) without allotment of number would have been received from Ram Sanhighat the same was to be sent back to Ram Sanhighat for allotment of number. When there was nothing wrong in the S.P.M. sent the SB-10(b) with allotment of number. No reasonable person in these circumstances and also as per procedure laid down, will come to conclusion that by this Act of S.P.M. the SP

account should have been considered to be opened there.

In the finding the Supdt. Post Office Barabanki has mentioned as under :-

" This contention is not tenable because the withdrawal could have been certainly averted had he been little vigilant to the serious omission/irregularities of the S.P.M. Ram Sanehighat and had he challenged these to the S.P.M. Ram Sanehighat very day on 13-2-1976 as there has been a gap of 4 days in between allowing the transfer of A/C on 13-2-1976 and date of fraudulent withdrawal of Rs. 5950/- from A/c on 17-2-1976 whereas the objection would have reached to S.P.M. at least upto 15-2-1976 had he sent by Shri Mangal Prasad". Now what was the objection to be sent to Ram Sanehighat on 13-2-1976. The allotment of number of SB A/C on SB-10(b) by S.P.M. Ram Sanehighat was required by rule and procedure because it was after allotment of number that SB account would have been transferred. Non submission of the P.B. was also immaterial because the balance noted on SB 10(b) and verified from pass book by S.P.M. Ram Sanehighat was tallying with ledger balance except that interest for 1974-75 was not added therein. Moreover for local transfer within same H.O. the submission of pass book was not much material. It was necessary when account was to be transferred to a Sub office under another H.O. because in the P.B. entry i.e., a/c closed and transferred was to be noted therein but in

transfer within same H.O. this entry in P.B. was not necessary and required under rules. The signature of the depositor on SB-10(b) was got attested by S.P.M. from respectable person i.e., Shri A.B. Kidwai Vakil. therefore there was no material irregularity.

SB(7) Viz. application for withdrawal will show that the withdrawal of Rs. 5950/- was allowed only when the depositor was identified by Shri A.B. Kidwai Vakil on 17-2-1976 after being transferred to his office. In case there was any lacuna in SB(7) though not mentioned the S.B. ledger clerk no. IV and not the petitioner is responsible.

Thus neither there has been any lapse on the part of petitioner nor lapses alleged could be construed to have contributed the fraudulent withdrawal of Rs. 5950/- on 17-2-1976. The punishment of recovery is therefore without jurisdiction and in contravention of the instructions of D.G. P & T New Delhi referred to above.

All the above rules and law as well as facts were placed before the appellate authority in the appeal but the D.P.S. Lucknow Region did not consider the appeal in objective manner. Instated the D.P.S. Lucknow Region took into consideration extraneous matter in deciding appeal. No such fact were alleged by disciplinary authority as will be seen

from statement of imputation. It was never alleged that the identification remarks on SB 10(b) were not in proper words as prescribed in rules. It was also not alleged that identification was fake and that identifier was not traceable at subsequent enquiry. It was also not alleged that petitioner accepted identification. The D.P.S. Lucknow Region~~xx~~ Committed error of law while taking into consideration extraneous matter. The Director postal Services Lucknow Region, the appellate authority has mentioned in para 5 as under :

" I have seen the entire record and it is clear that the appellant has accepted in toto the identification by an Advocate and the identification was further verified by the S.D.M. . Identification was also not properly worded which was not challenged by the appellant. On subsequent enquiries the so called identifier could not be traced. The appellant should have doubted and taken the points to have compared the signature specially when the identification was not in the prescribed wordings."

The important question of law arises whether the appellate authority will allege new facts while deciding the appeal. The rules of Natural justice requires that no material should be taken into consideration without giving opportunity to rebut. The petitioner has mentioned above that no such allegation as has been taken into

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consideration by appellate authority were alleged by disciplinary authority. Even the contention of the appellate authority on the new fact is ~~also~~ erroneous and misconceived. The important issue to be decided is whether identification remarks written by identifier in his own language and words not consistent with language and words prescribed in rules will not amount to identification of such person as has been observed by learned appellate authority. SB-10(b) and application for withdrawal of Rs. 5950/- will show that the identifier was respectable person i.e., Vakil Ram Sanchi Chat. The words used by him in identification of depositor are as under :-

" SB-10(b) " I certified that applicant (depositor) who has signed before as certified and confirm that the applicant has signed before me." A.E. . Kidwai Vakil 17-2-1976.

Application for withdrawal SB(7).

" I identify Sur Prasad (depositor) who has signed before me.

A.D.Kidwai.

Vakil 17-2-1976.

No reasonable person will come to conclusion on the above facts that the depositor was not identified by the said Shri A.D.Kidwai while submitting SB-10 (b) or application for withdrawal. Non use of words mentioned in manual in identification

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Remarks will not amount to non identification of depositor and the findings of the appellate authority though in-warranted became no such facts were alleged, on the issue is perverse and erroneous. The petitioner had requested the Supdt. Post Offices Barabanki to supply the copy of the identifier statement vide application dated 21-7-1977 (Annexure (C) but the said statement was not supplied and declared irrelevant vide letter dated 17-12-1977 (Photostat copy attached as Annexure (D)). Relevancy of document is determined after going through the document. The existence of statement of Shri A.B. Kidwai identifier is thus established. The facts mentioned by the D. D. Lucknow Region that a identifier could not be traced on subsequent enquiry is thus false and incorrect. This conceived the petitioner has already said above that there was no allegation in referred to identification remarks or the identifier. As such there was no opportunity to rebut the above alleged facts by D.P.S. Lucknow Region for which the appellate authority has no legal right to introduce the new fact. Assumption of D.P.S. Lucknow Region on the issue of identification is not only illegal but also baseless.

To say that Shri A.B. Kidwai has not identified Shri Gur Prasad, depositor of SB A/C and

that identification was suspicious and petitioner should have doubted as has been said and mentioned in appellate order by appellate authority because Shri A.B. Kidwai did not write identification remarks in similar words used in P & T Manual Vol. VI part III will be mockery of justice. The appellate authority has not considered the case in objective manner which has resulted in mis carriage of justice. The appellate authority has mentioned in his order that it was the stage i.e., when SB-10(b) was received that fake identification could have been noticed. It has been assumed that identification on SB-10(b) was fake whereas the reality is that Shri A.B. Kidwai Vakil Ram Sanahi ghata and he was contacted by police and postal authorities and as is learnt that he admitted to have identified the depositor on SB-10(b) and application for withdrawal. No where in punishment order or appellate order the disciplinary or appellate authority have asserted that Shri A.B. Kidwai Vakil denied the identification remark on SB-10(b) and application for withdrawal. On what ground it is said that identification was

fake has not been mentioned in the order and thus finding is based on no evidence.

It may also be noted that the identification was made in presence of S.P.M. Ram Senehighat and he has accepted the identification when an Incharge of L.B.C. O.C. accepts identification there was no ground to discard or doubt the identification. More over no such facts were alleged in statement of imputation.

Both the disciplinary and appellate authority has failed to mentioned how the lapses alleged by them has caused the loss when the payment was made on identification of S.P.M. Ram Senehighat after the transfer of account and withdrawal of Rs. 5950/- was dealt with by other ledger Clerk and not by the petitioner. Both the authorities have ignored the order of the D.G. P. & T New Delhi in regard to transfer of a/c communicated vide letter No. 5-10/74-SB dated 10-2-1975 reproduced above laying down that transfer should be effected by H.O. even if signature of depositor cannot be obtained for attestation with remark that Signature does not agree and account may be opened on

transfer, withdrawal to be allowed only after proper identification. The position is the case is that signature of depositor was attested by respectable person. In view of such provisions in rules order of Director General P & T . New Delhi the contention of appellate authority that the petitioner should not have transferred the SB A/C from Sa Idarganj to Ram Sanehighat under same H.O. of Barabanki because identification made by Shri A.B.Kidwai Vakil was not in words presented in rule of P & T . Manual Vol. VI part II even if J.P.N. accepted it is incorrect, erroneous and liable to be struck down. The finding of both authorities that transfer of the account has caused the loss & is attributable to petitioner is far from imagination and unreasonable as well as unjustified. It will be thus seen that neither there has been any lapse on the part of petitioner in regard to transfer of account nor any loss was caused due to negligence of petitioner which is condition precedent to the imposition of penalty of recovery of loss from pay of the appellant.

The appellate authority further failed to mention in appellate order how it is said that there was difference in the balance as shown in SB-10

and ledger card. The petitioner had mentioned in his defence and appeal that there was no difference in balance except that in P.D. the interest of one year was not added and therefore there was no necessity to call for pass book in transfer of account from one S.O. to another Sub Office under same Head Office.

The appellate order will show that the learned D.P.S. Lucknow Region has assumed new fact and inserted new allegation that identification was not in proper words, that identification was fake and that identifier was not traceable and that fake identification was not noticed by petitioner. The D.P.S. Lucknow came to conclusion that the above lapses on the part of petitioner caused the loss. It is respectfully submitted that by taking into consideration extraneous matter and alleging new facts and then rejecting the appeal on the basis of consideration of extraneous facts not contained in statement of imputation ~~that~~ the D.P.S. Lucknow has committed error of law and the order is liable to be quashed.

There is also vital defect in the disciplinary proceedings initiated by the S. Post Barabanki in

vide No. P/SP-5/76-77 dated 7-1-1984. The above proceedings once initiated vide no. P/SD-5/76-77 dated 20-6-1977 were dropped vide ~~xxx~~ Memo dated 17-9-1982 reproduced in page 4 of the petition. In the order dated 17-9-1982 the Supdt. Post Offices Barabanki did not mention that the proceedings are being dropped without prejudice to further action which may be considered in the circumstances of the case. Reference is invited to Govt. of India Instruction No. 9 below rule 15 of the CCS (CCA) Rules 1965 in Swamy's publication of CCS(CCA) Rules reproducing D.G. D & T Letter No. 114/324/73-DISC.II dated 5-7-79.

The D.P.S, Lucknow has ordered that the period of suspension will be treated as duty for all purposes except pay and allowances which shall be limited to subsistence allowance. It may be submitted that neither disciplinary authority nor appellate authority issued showcause notice and gave opportunity to submit representation against the treatment of the suspension. Period. The order is therefore violative of rules of natural justice illegal.

It was submitted in appeal that the suspension was and is wholly unjustified as condition precedent to exercise of power under rule 10 of CCS (

precedent to exercise of power under rule 10 of CCS (CCA) rules. Suspending the petitioner did not exist. The relevant para is reproduced below :-

" In fact the suspension was wholly unjustified as condition precedent of passing of such order did not exist guiding principle for placing a Govt. servant under suspension was issued by Govt. of India vide LHA letter No. 43/56/64-AVD dated 22-10-1964. The Director General P & T New Delhi on the basis of aforesaid letter issued instruction laying down condition for suspension vide No. 201/43/76 DISC II dated 15-7-1976 para (b) referred which is reproduced below :-

"Even in the above circumstances an official may be placed under suspension only in respect of misdemeanour of following type.

- (i) an offence of conduct involving moral turpitude.
- (ii) Corruption, embezzlement or mis-appropriation of Govt. money.
- (iii) Serious negligence or dereliction of duty resulting in considerable loss to Govt.
- (iv) desertion of duty.
- (v) Refusal or deliberate failure to carry out

written orders of supervisory officers.

In the case of appellant the above condition did not exist. As such the order of suspension was passed without jurisdiction and it is illegal. The appellant is therefore entitled for treatment of period of suspension as duty for all purposes and fully pay and allowances for period 23-11-1976 to 8-7-1977.

P R A Y E R

The appellant prays that impugned order of the Supdt. Post Offices, Barabanki imposing the penalty of recovery and the order of the D.P.S. Lucknow rejecting the appeal vide Memo No. RDI/APP-17/84/1 dated 31-5-1984 be set aside. It is further prayed that suspension order be declared unjustified and be treated ~~(being)~~ as duty for all purposes including pay and allowances which may be ordered be paid to petitioner.

Yours faithfully.

(Mangal Prasad.)

THU 1 1984
S. K. Prasad
(Advocate)

Annexure No. A-

No. 2/227/86-VL, I/L
Government of India.
Ministry of Communication
Department of Posts.

New Delhi-110 001.

Dated: 20-8-1986.

O R D E R

Shri Mangal Prasad, S.P.M. Barabanki
has submitted a petition against the penalty of recovery
of 500/- from his pay ordered by Supdt. of Post Offices,
Barabanki and upheld by the appellate authority, Director
Postal Services Lucknow Division, Lucknow.

2- Disciplinary proceedings were initiated on 20th
June, 1977 under rule 16 of D.O. (CC) Rules, 1965 by the
Supdt. of Post Offices, Lucknow with the following
imputations:-

" Shri Mangal Prasad S.P.M. Barabanki Bazar
(Under suspension) while working as ledger clerk Bara-
banki H.O. on 13-2-1986 received SB-10B in respect
of Saldarganj B.O. No. 50715 for transferring this
account to Nam Senani, Barabanki H.O. through S.P.M.R.S.
Ghat P.O. The aforesaid account was already transferred
by the S.P.M. Ghat and a new account No. 231771 was
noted on SB-10(b). Shri Prasad failed to notice that
the above account was transferred by S.P.M. R.S. Ghat
getting its balance verified from H.O. and without the

obtaining permission of H.O. in this regard. The SB-10(b). mentioned above was not accompanied by the relevant pass-book. The said Shri Prasad failed to challenge it and to call for pass book for verification of balance. He also failed to compare the signature of so called depositor available on SB-10(b) with that on record on the plea that specimen signature was not traceable while specimen signature was available at Sarabanki H.O. The said Shri Prasad did not trace it out at the time of transferring the account to A.S. That otherwise the difference in signature of depositor could have been detected and subsequent fraudulent withdrawal of Rs. 5950/- from this account dated 17-2-1986 would have been averted. Moreover in SB-10(b) the balance was noted as Rs. 5961.70P. Shri Prasad transferred the account with a balance of Rs. 6268.45P. which was the ledger balance. The said Shri Mangal Prasad therefore, failed to call for the pass book to rectify the difference in balance. The said Shri Prasad also failed to send intimation of transfer of account to Sardarganj P.O. on 19-2-1986. Thus the said Shri Prasad while working as ledger clerk Sarabanki H.O. failed to follow the prescribed procedure in transferring Sardarganj Sarabanki a/c No. 60215 to A.S. That and violated the provisions of rule 4/2(1) read with

rule 440 (1) of P & F Man. Vol. VI Part-II.

The said Shri Prasad also failed to maintain devotion to duty and did an act unbecoming of a government servant and thereby violated the provisions of rule 3 (II) and (III) of CCS (Conduct) Rules, 1964. After considering the defence statement of the official, the disciplinary authority held that the misconduct committed by the petitioner in his duty as ledger clerk directly is attributable to fraudulent withdrawal of Rs. 5950/- and that, therefore, charges were proved. Accordingly, a sum of Rs. 500/- was ordered to the ~~amount~~ recovered from him. As already stated this was upheld by the appellate authority after due consideration of the appeal.

3o In the petition under consideration after giving the history of the case, the petitioner has stated that the instructions issued by the D.C.P. & T and provisions in rule 106, 107 and 111 of P&F Man. Vol. VIII require that a government servant could be held responsible for a loss only if lapses on his part have either led to commission of fraud or misappropriation or frustrated the inquiries. He has also stated that the charges against him was that he had failed to compare the signature of the depositors in this case with

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~~ANNEX~~

those on record even though it has not been mentioned that the signatures differed no has the fact of the signatures having been attested by one Shri A.B. Kidwai been given. He has accordingly questioned the findings of the disciplinary authority with regard to later holding that if the petitioner had compared the signatures the loss could have been averted. He has stated that there was actually no difference in the balance was certified to be correct by the S.P.M. Ram Sanehi Chat. He has the stated that the Supdt. of Post Offices, Barabanki had failed to take into consideration the fact that by mere allotment of number by the S.P.M. Ram Sanehi Chat of 33-10(b) the account could not be said to have been opened. Therea. He has stated that he had followed the rules correctly and that if there was any lacuna for fraudulent withdrawal of Rs. 5950/- ledger clerk No. IV and not the petitioner was responsible. He has contended that there was no lapse on his part not the alleged lapses can be constituted to have contributed towards fraudulent withdrawals of Rs. 5950/- accordingly the penalty awarded to him is justified. He has stated that the appellate authori-

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ty took the exiguous matters into consideration like subsequent verification of the identifier who could not be traced etc. By doing so, the appellate authority had raised new allegations. He has stated that there was no reason to suspect at the time of the receipt of SA-10 (b) that Shri A.B. Kidwai, the identifier was not traceable. He has stated that there was no opportunity given to the petitioner to rebut. He has conducted that the appellate authority did not examine the case in an objective manner which resulted in miscarriage of justice. He has stated that the disciplinary and appellate authorities have no where stated that Shri Kidwai, Vakil had disowned the identification specially when it was made in the presence of S.P.M. Ram Sanohi Chet. He has also stated that once the proceedings were dropped, they could not be reviewed, by the disciplinary authority. Accordingly, the proceedings are defective. He has prayed for setting aside the order of recovery and the appellate order in this behalf.

4- The petition has been considered carefully alongwith all the relevant records of the case and it is observed that the disciplinary authority has acted in accordance with the instructions of D.G.P. & and rules contained in rule 106, 107 and 111 of P&T Manual Vol. XII as the petitioner's acts of mis-conduct

contributed directly towards causing the fraudulent withdrawal and thereby loss to the department. The argument of the petitioner that the allegation was not an ~~withdrawal~~ regard to difference of signatures but was only non-comparison of signatures, is of half splitting type even though both these things in this case mean the same thing. It is observed that the petitioner failed to call for the pass book at the time of transferring the account which should not have been done. The balance in the accounts was also not followed before allowing the transfer of the account. The petitioner was required to challenge the difference in the balance and call for the pass book for entry of interest and verification before ~~an~~ transfer. Had the petitioner done his duty properly in this regard the alleged fraud would not have taken place. It is also observed that even the identification had not been done with the proper phraseology, this ~~in~~ should have been objected to by the petitioner. The petitioner is not ~~dated~~ to be responsible in connection with application for withdrawal and lapses in that regard and that is why out of a total loss of Rs. 5950/- only Rs. 500/- has been recovered from his pay. The recovery in the circumstances stated above, has been ordered correctly. His contention that the appellate

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authority had alleged new imputations in the appellate order is also not correct. It is also observed that in the proceedings had been dropped till the finalisation of the case by the court conditionally and therefore their revival subsequently is in order and the contention of the petitioner in this regard is not tenable. To sum up the charges are proved against the petitioner and the penalty of recovery of Rs. 500/- is justified. The petition deserves to be rejected.

5. In view of the foregoing considerations and in exercise of powers conferred on him in accordance with the rule 22 of CCS(CM) Rules, 1955, the undersigned hereby rejects the petition.

(H. Kishore)
Member (Personnel)
Postal Services Board.

Shri Mangal Prasad,
S.P.M. JB Raj.
Barabanki.

(Through LPS, Lucknow Region, Lucknow-226 007)


(H. Kishore) Adv.

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Annexure-A

No. 3/15/86-Vig.III.
Government of India.
Ministry of Communications
Department of Posts.

New Delhi-110001.

Dated 26-8-1986.

O R D E R

Shri Mangal Prasad, S.P.N. JD Raj, Barabanki has submitted a petition against the treatment of period of suspension u.e.f. 23rd Jul., 1976 to 8th July, 1977 as duty for all purposes including pay and allowances restricted to the level of S.A. already said ordered by the appellate authority in modification of the order passed by the disciplinary authority in this case.

2. Disciplinary proceedings were initiated on 20th June, 1977 under rule 16 of CCS(CCA) Rules, 1965 by the Jpdt. of Post Offices, Lucknow with the following imputation :-

Shri Mangal Prasad S.P.N. Barabanki Bazar (under suspension) while working as ledger clerk Barabanki H.O. on 13-2-1986 received SB-10(b) in respect of Safdarganj SB-A/C No. 60215 for transferring this account to Ram Sanohi Ghat P.O. through S.I.No. R.S. Ghat P.O. The aforesaid account was already transferred by the S.P.N. R.S. Ghat and a new account No. 251771 was noted on SB-10(b). Shri Prasad S.P.N. R.S. Ghat without getting

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-2-

its balance verified from H.O. and without obtaining permission of H.O. in this regard. The SB-10(b) mentioned above was not accompanied by the relevant pass book. The said Shri Prasad failed to challenge it and to call for pass book for verification for balance. He has also failed to compare the signature of so call depositor available on SB-10(b) with that on record on the plea that specimen signature was not traceable while specimen signature was available at Barabanki H.O. The said Shri Prasad did not trace it out at the time of transferring the account to R.S. That otherwise the difference in signature of depositor could have been detected and subsequent fraudulent withdrawal of Rs. 5950/- from this account dated 17-2-86 would have been averted. Moreover in SB-10(b) the balance was noted as Rs. 5964.70p. Shri Prasad transferred the account with a balance of Rs. 6268.45 P., which was the ledger balance. The said Shri Mangal Prasad therefore, failed to call for the pass book to rectify the difference in balance. The said Shri Prasad also failed to sent intimation of transfer of account to Safdarganj P.O. on 19-2-1976. Thus the said Shri Prasad while working as ledger clerk Barabanki H.O. failed to follow the prescribed procedure in transferring Safdarganj Barabanki A/c No. 60215 to R.S.

Chat and violated the provisions of rule 442 (1) read with 440 (1) of P & T Manual Vol. VI part II.

The said Sari Prasad also failed to maintain devotion to duty and did not unbecoming of a government servant and thereby violated the provisions of rule 3(ii) and 3(iii) of CCS(Conduct) Gen Rules, 1954. After considering the defence statement of the official the disciplinary authority held that the misconduct committed by the petitioner in his duty as ledger clerk directly is attributable to fraudulent withdrawal of Rs. 5950/- and that, therefore, charges were proved. Accordingly a sum of Rs. 500/- was ordered to be recovered from him. As already stated this was upheld by the appellate authority after due consideration of the appeal.

3-In his petition under consideration, the petitioner has given his version and has stated that he was placed under suspension from 23.7.1976 to 3.7.1977. After conclusion of the proceedings, the period was treated as leave due and admissible to the official. This was modified by the appellate authority to that of duty for all purposes including pay and allowances restricted to the subsistence allowance already paid. He has contended that he was not given any showcause notice or opportunity

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also

to submit representation against the treatment of the suspension period. He has also stated that the circumstances of this case did not deserve placing the petitioner under suspension initially and that his period of suspension should be treated as duty for all purposes including pay and allowances.

4- Since the disciplinary proceedings in question were finalised by awarding the penalty of recovery of Rs. 500/- to the petitioner and he has not been exonerated it is observed that in accordance with the instructions then existing, the appellate authority had correctly treated the period in question as duty for all purposes including pay and allowances restricted to subsistence allowance already paid to the petitioner. The present instructions where the period of suspension is treated as duty for all purposes including pay and allowances in the case of the disciplinary proceedings being concluded with the award of a minor penalty would not apply to this case as these instructions according to the Department of Personnel are not applicable to all cases. The petition, therefore, deserves to be rejected. The petition of the petitioner that there was no case for placing him under suspension as the alleged act of misconduct against him was not such for which he could have been placed under suspension, is also not

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-5-

tenable as in this case the negligence of duties resulted in considerable loss to the government and therefore, placing the petitioner under suspension was justified. The contention of the petitioner that he was not given any opportunity in the form of show cause by the disciplinary authority before regulating the period of suspension is correct. However, against this order since the petitioner has already availed the opportunity of submitting of appeal and the appellate authority has after considering the plea of the petitioner regulated the period of suspension favourably to the petitioner, he has already been afforded reasonable opportunity by the appellate authority. Had the appellate authority passed the orders restricting the pay and allowances etc. to lower than that the disciplinary authority had given then a show cause notice would have been necessary. Since the appellate authority had passed the order after taking all the circumstances of the case and plea of the petitioner in his appeal into consideration, the order is in accordance with the rules. To sum up, there is no justification to treat the period of duty for all purposes including pay and allowances as requested by the and the petition deserves to be rejected

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5- In view of the foregoing considerations
and in exercise of powers conferred on him vide 22
of CCS(CC^A) Rules, 1965, the undersigned hereby rejects
the petition.

(Signature)

Member (Personnel).
Postal Services Board.

Shri Mangal Prasad,
S.P.M. J.B. Raj,
Barabanki.

(through J.P.S. Lucknow Region, Lucknow, 226 007).

TRUE COPY

(P. Adv.)

113-1150

80 - Projects of Trade
New Delhi

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Hangul Rd

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and himself was to be paid \$100

and himself was to be paid \$100

that the government was to pay the order as also
those paid by the United States Postal Service New-
York in the amount of \$100 and the
to which may be added to the pay during the
period of the United States Postal Service. It may further be
added to the amount of the pay recovered
from the United States Postal Service.

James A. McFarland,

6-1-1947

and Mrs. A. McFarland

James A. McFarland

James A. McFarland
James A. McFarland
James A. McFarland

Maryal Ed

Annexure A-8
Specimen of Form SB 10(b)

S.B.-10 (b)

APPLICATION FOR TRANSFER OF.....ACCOUNT
To

The Postmaster,

I request that my.....Account

No.....standing on the books of the.....
Post Office Savings Bank may be transferred to the books of the.....
Post Office Savings Bank.

The passbook which is the basis of Rupees..... (in words) is
enclosed & may be returned to me to the address noted below. Three specimen
signatures are given below.

holding the following kinds of Government Securities in the custody of the Chief
Auditor, Posts and Telegraphs.....
(Kinds of loans specifying the year of..... on may be entered here)

Signature of Depositor

Dated.....

Address.....

Specimen Signature

(1).....

Countersigned

Postmaster

Date

(2).....

Countersigned

Postmaster

Date

(3).....

Countersigned

Postmaster

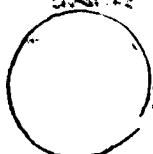
Date

ACKNOWLEDGMENT SLIP

Received application for transfer of.....
Account No.....in the name of.....standing on the books of
the.....Post Office Savings Bank to the books of
the.....Post Office Savings Bank with the relevant passbook
showing a balance of Rs.....(Rupees)
.....only.

In the case of C.T. & N.D. account, the depositor may, on the return of the
passbook, make deposits regularly at a Post Office Savings Bank to which the account is
to be transferred, by showing this acknowledgment slip.

Date of stamp



Postmaster's Signature

Name of

Post Office.....

IN THE GENERAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH

AT DELHI.

ORDER

CIVIL MISC. APPLICATION NO. _____ OF 1988.

On behalf of the respondents.

..... Applicants.

IN

REGISTRATION NO. ⁷⁹⁰ 780 OF 1988.

Mangal Prasad Applicant.

Vs.

Chairman Postal Board,

New Delhi and others Respondents.

To

The Hon'ble the Vice-Chairman and his other
companion members of the aforesaid Tribunal.

The humble petition of the abovesaid applicants
most respectfully sheweth:-

1. That the full facts have been set out in the
accompanying counter affidavit.
2. That it is necessary in the interest of justice
that the reliefs sought by the applicant in his aforesaid
application may kindly be rejected.

Cf

(2)

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may be pleased to allow this application and reject the reliefs sought by the applicant in his aforesaid application.

And/or be further pleased to pass such other and further order which this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.

DATED/-

Ulm.
(K.C. SHUKLA),
Addl. Standing Counsel,
Central Government.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH
AT ALLAHABAD.

COUNTER AFFIDAVIT

IN

REGISTRATION NO. 790 OF 1988.

Mangal Prasad Applicant.

Versus

Chairman Postal Board,

New Delhi and another

..... Respondents.

Affidavit of Shri R.A. Verma
aged about 50 $\frac{1}{2}$ years son of Late
Shri Ramdeo Verma

R.A. Verma
(Deponent)

I, the Deponent above named do hereby solemnly affirm
and state on oath as under:-

1. That the Deponent is posted as Supdt of Post Office
Barabanki Dist. and is authorised to file this
counter affidavit on behalf of the respondents and as such

R.A. Verma

(2)

he is fully acquainted with the facts of the case deposed to below.

2. That the contents of the application filed by the petitioner have been read over by this deponent and he has fully understood them and is in a position to reply the same.

3. That before giving para-wise reply to the application it is necessary to give certain facts which may assist this Hon'ble Tribunal in deciding the controversies involved in the case.

4. That while the petitioner was working as Ledger Clerk at Barabanki Head Post-office, on 13-2-1976 he received SD-10(b) (transfer application) in respect of Safdarganj Sub-Office Saving Bank Account No. 60215 for transferring the said account from Safdarganj sub-office to Ram Saranighat sub-office on which the Sub-Postmaster, Ram Saranighat sub-office had already endorsed new account No. 231771. The said transfer was made without the permission of the Head Post-office and also without the balance noted thereon which is to be verified by the Head

R.D. Kemp

R.A. Kenny

(4)

pass-book.

5. That the real depositor lodged a complaint and after having an inquiry on the said complaint, it was revealed that the said ^{account} ~~amount~~ was fraudulently transferred from Safdarganj sub-office to Ram Sanhibagh-
eight and also that a sum of Rs.5950/- was also withdrawn fraudulently from the said account on 17-2-76. And the petitioner challenged the difference in the signature available in the SB-10(b), with that of record at Barabanki and also called for pass-book and re-conciled the balance, the fraudulent withdrawal could have been averted. The petitioner also failed to send the intimation of transfer of the above ^{account} ~~amount~~ to Safdarganj on 13-2-1976.

6. That the petitioner was placed under suspension vide order dated ~~23-11-1976~~ 23-11-1976 and he was subsequently reinstated on 8-7-1977. The petitioner was ~~also~~ ^{also} ~~placed~~ ^{suspended} under rule 16 of the Central Civil Services (Classification, Control & Appeals) Rules, 1965 for violating the provisions of rule 442(1) read with

R.A. Verma

(5)

rule 440(1) of the Post & Telegraphs Manual Volume VI Part IX and rule 3⁽¹⁾(2) and rule 3⁽¹⁾(3) of the Central Civil Services (Conduct & Service) Rules, 1964 vide an order dated 20-6-1977.

7. That it is also pertinent to mention here that regarding the said fraudulent withdrawal a P.I. was lodged and a criminal case was registered against the petitioner including other persons and the original documents ~~of the case-book~~ on the basis of which the said charge-sheet was issued, were lying in the custody of the Court, where the said criminal case was pending and as such the charge-sheet was dropped till the finalisation of the court case vide memo dated 10-12-1982. A photostat copy of the memo dated 10-12-1982 is being filed herewith and marked as ANNEXURE NO. C.A.1.

8. That after the finalisation of the court case on 7-1-1984 the petitioner was again charge-sheeted under rule 16 of the Central Civil Services (Classification, Control & Appeals) Rules, 1965 for the said offence and in response to the said charge-sheet the

R.A. Verma

petitioner submitted an application requesting that the reply of the charge-sheet which the petitioner has submitted earlier in response of earlier charge-sheet may be referred in its reply.

9. That after perusing his reply as well as other connected records, a penalty of ^{recovery} a sum of Rs. 1000 was imposed on the petitioner and the period of suspension from 23-7-1976 to 8-7-1977 was ordered to be treated as leave due vide an order dated 10-7-1977.

10. That in fact the petitioner has taken a specific plea in his reply that the specimen signature of the depositor was not traceable in Barabanki Head Post-office whereas the fact remains that the specimen signature of the depositor was available on the record of Barabanki Head office and the petitioner has not cared to discharge his duties honestly. Moreover, keeping in view the difference in the balance between SB-10(b) and SB-10(c), it was the foremost duty of the petitioner to call for the pass-book to rectify the difference.

R.A. Verma

(7)

before the transfer is effect but the petitioner has badly failed in discharging his duties and transferred the said ^{account} amount from Saffarganj to Ram Samhighat. The said dereliction of duty of the petitioner has facilitated the actual offender who committed the fraud upon the department and as such he was punished for a penalty of a sum of Rs.500/- of recovery. In order to facilitate this Hon'ble Tribunal the photostat copy of rule 440 and 442(1) of the Post & Telegraph Manual Volume VI Part II is being filed herewith and marked as ANNEXURE NO.C.A.2.

11. That the petitioner filed an appeal to the Director Postal Services, Lucknow against the aforesaid punishment order and the said appeal was decided confirming the penalty of recovery and modifying that the period of suspension will be treated as duty for all other purposes except the pay which should be restricted to the subsistence allowance already drawn by the applicant during his suspension.

12. That the petitioner again preferred petition against the order of the appellate authority to the

R.D. Kumar

(8)

Chairman Postal Services Board, New Delhi, which was also rejected vide an order dated 20-8-1986.

10. That the contents of paragraph nos.1, 2, 3 and 4 of the application need no comments.

14. That in reply to the contents of paragraph no.5 of the application it is submitted that the acceleration which has been made in the para under reply, is absolutely wrong. As per the version of the petitioner mentioned at page no.5 of the paper-book, the petition of the petitioner was decided on 20-8-1986 and as such the petitioner could have reformed the application by 19-8-1987 as the limitation for filing the petition in this Hon'ble Tribunal is only one year and the petitioner has filed the present application after the expiry of one year and as such the petition is time barred and is liable to be dismissed on this ground alone.

15. That the contents of paragraph no.6(1)

Advocate

(9)

of the application being matters of record, need no further comments.

16. That the contents of paragraph no.6(11) of the application are matters of record, except the assertion made in the para under reply that "But how it could have been averted is an important question which neither the Supdt., The PDS nor the Chairman Postal Board has answered," and also further assertions which have been made in the para under reply. As stated earlier, the petitioner has ^{not} discharged his duties according to the rules and he has not been vigilant while the transfer was being effected, which has facilitated the offenders who have withdrawn the amount fraudulently and in case he would have been vigilant and he would have verified the signatures and also followed the procedure laid down in rule 440 (1) and 442(1) of the Posts & Telegraph Manual Volume VI Part VI, the said fraud could not have been committed and the post office would not have been in the loss of the said amount. In fact keeping in view of the part which he played in the said commission of the fraud,

R.A. Kering

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the minor punishment was given to him. In fact the petitioner is guilty of committing negligence in the said case. It is further submitted that rule 106 and 107 referred to in the para under reply, specifically states that the severity of the recovery can be imposed only when it is established that the Government servant was responsible for a particular act as stated above the petitioner was held responsible at least for not following the rules and not being vigilant while discharging his duties and particularly at the time when the said transfer was being effected, and as such by no stretch of imagination it can be said that the said rule had not been followed. The perusal of rule 204 and 204-A of the Post & Telegraph Manual Volume III, referred therein, would also go to show that in the case of the petitioner it has been fully followed. In fact only keeping in view of the reply of the petitioner in the said fraud, the said minor punishment was given to him. Had he been the principal offender, he would have been given a charge-sheet under rule 14, instead of rule 16. The applicant was treated as a subsidiary offender during the

Ref. 1000

(11)

preliminary inquiry as he did not follow the correct procedure in transferring the account from Safdarjung sub-office to Ren Samhi^{ghat} sub-office, and as such he was charged and only according to the rule the punishment was imposed on him. Moreover, in the circumstances mentioned above, the court will not interfere in the vicinity of the quantum of the punishment in normal course.

17. That the contents of paragraph no.6(iv) of the application are not correct and as such are denied. In fact the figure of the int rest is mere a speculation whereas the actual interest during the year 1974-75 in the present case was Rs.353.70 and not Rs.303.75. The petitioner is explaining a lame excuse for his dereliction of duty, whereas the fact remains that he has not tallied the account of the ledger with that of pass-book and also with the SD-10(b). The duties of the Ledger Clerk have been specifically mentioned in rule 442(i) and there is no other explanation of the petitioner that why the said rule has not been followed.

R.A. Kumar

(12)

18. That the contents of paragraph no.6(v) of the application are not correct and as such are denied. In fact the petitioner has not followed the correct rule of 440(1). In case the signatures are differed, unless the signatures are verified according to the terms of rule 440(1), the transfer could not have been given effect to. In the present case the workings of the identification were not followed used as have mentioned in rule 440(1). The correct working as is required for withdrawal is "the depositor is known to me and he has signed in my presence". But in the instant case, it was mentioned in CL-10(b) "I certify that the applicant-depositor has signed before me". In fact regarding the attestation of the signature of the depositor rule 425.2 of the ^{Said} Posts & Telegraph Manual specifically directs that the attestation has to be done in the following terms:-

"The depositor is known to me and has signed in my presence".

19. That the contents of paragraph no.6(vi)

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of the application are not correct and as such are denied. It is absolutely wrong to allege that the petitioner has acted as per the rules. In fact in the criminal proceedings, the offence was tested and the matter has not been scrutinised that whether the infringement of the departmental rule has been committed or not. It cannot be said that in case the petitioner has been chosen to State witness, he is absolved from his responsibilities. In fact the perusal of his whole position would go to show that he has not offered any explanation before this Hon'ble Tribunal that why the said provision of the Posts & Telegraph Manual Volume VI Part IX have not been followed.

20. That the contents of paragraph no.6(vii) of the application are not correct and as such are denied. It is further submitted that the circular which has been issued on 31-12-1983 shall not be applicable in the case of the petitioner as the order of the punishment was passed earlier to the issuance of

Rd. Venna

(14)

the said circular i.e. on 31-5-1984. Moreover, the said circular does not speak about its effect retrospectively and as such the same shall be applicable in the subsequent cases and not in the earlier cases.

Rest of the assertions made in the para under reply are argumentative in nature and shall be suitably replied at the time of issuing of the petition.

21. That in reply to the contents of paragraph no.7 of the application it is stated that in view of the facts mentioned in the earlier affidavit this counter affidavit, the petitioner is not entitled to the reliefs sought in the para under reply.

22. That the contents of paragraph nos.8, 9, 10, 11, 12 and 13 of the application need no comments.

That the contents of paragraph nos.1, 2 and 3 of the affidavit are true to my personal knowledge; those of paras nos.4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 20(partly), and 22 are based on perusal of record; those of paragraph nos.20(partly) and 21 are based on

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legal advice; which I believe to be true that no part
of it is false and nothing material has been concealed.
SO HELP ME GOD.

R.A. Verma
.....

(DEPONENT)

I, D.S. Chaudhary, Clerk to Shri K.C. Sinha, Additional
Standing Counsel, Central Government, High Court, Allahabad,
do hereby declare that the person making this affidavit
and alleging himself to be Shri R.A. Verma is known
to me personally.

D.S. Chaudhary
.....

(CLERK)

Solemnly affirmed before me on this 11/5
day of August, 1958 at 9.00 A.M./P.M. by the deponent who
is identified by the Clerk.

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

R.D. Verma

OATH COMMISSIONER :

Annexure A-I

Indian Post & Telegraph Department

Office of the Supdt. of Post Offices Barabanki Div. Barabanki - 22001.

Order No - P/25/76-77, G.O., dt. 20.6.77

/12.12.82

In the case of Sri Mangal P.O. Sd/- J.B. Nayak is still

under trial in the court. The Deptl. proceedings should not be held
concurrently with the court proceedings. So the charge sheet issued
under rule 16 of CCS(CA) rules 1959 to Sri Mangal P.O. Sd/- J.B. Nayak is
with this office on P/25/76-77, G.O. dt. 20.6.77 is hereby dropped
till the finalisation of court case.

Supdt. of Post Offices,

Barabanki Div. Barabanki-22001.

Copy to -

1. Sri Mangal P.O. Sd/- J.B. Nayak.
2. P.O. of the official.
3. CH File of the official.
4. Vigilance staff.
5. O.P. / O.P.M.

T.C.

...

Annexure CA-2

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CHAP. 8-1;

SAVINGS BANK ACCOUNTS

[441-E-442

A remark regarding the issue of duplicate Advice of transfer should also be made in the ledger card under the dated signature of the postmaster.

(2) A separate record of all duplicate advices of transfer received should be kept in the transferee head office in a register for reference whenever necessary.

(3) In the event of the original advice of transfer being received through some source, the transferee head office will record thereon the remark "Account No. already opened on receipt of the duplicate advice of transfer" under the dated signature of the postmaster. The advice of transfer will be sent to the Control Organisation on the following day with the day's return.

(4) If the original advice of transfer is received in the transferee head office after 15 days of its despatch, this may be checked with the register of duplicate advices of transfer before opening the new account to see if the account has not already been opened on its duplicate advice of transfer.

TRANSFER OF AN ACCOUNT FROM THE OFFICE TO ANOTHER OFFICE UNDER THE SAME HEAD OFFICE

442. (1) Procedure in head office when the account is to be transferred to a D. O. not authorised to issue pass books independently. When an account is to be transferred from one office to another not authorised to issue pass books independently under the same head office the pass book and the application for transfer along with two additional specimen signatures will be received by the head office either direct or from the sub office where the account stands entered in the list of documents. The ledger clerk should verify the balance as shown in the pass book with that in the ledger card, compare the signature on the application for transfer with specimen signature on record and if it agrees, take action to open the account in the new office. If the signature does not tally, action should be taken as detailed in Rule 440(i). The index to ledger cards of the new sub office should be referred to and the next account number assigned to this account making necessary corrections in the application card and in the ledger card of the old office. The corrected application card should be transferred to the card index cabinet of the new office and the ledger card should be taken out from the binder of the old office and placed in the binder of the new

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office after the postmaster has checked the balance in the ledger card with the amount shown in the transfer application form and the pass book. Necessary remark should be given in the remarks column of the ledger card and the index to ledger cards of the old office about the transfer of the account. If the application for transfer is received direct and not through the office where the account stands an intimation to the effect "Account No.....of.....(depositor's name) transferred toS.O., B.O." should be sent to the office where the account stood through the SB slip in the case of a sub office and the B.O. slip in the case of a Branch Office in direct account with the Head Office. Two specimen signatures should be cut out from the transfer application form, date stamped and countersigned by the postmaster after noting the new account numbers in the slips. These slips along with the transfer application form should be sent to the new sub Office entered in the savings bank slip. In the savings bank slip the ledger clerk shall write the words "(name of the old office)Account No.....of..... (depositor's name) transferred to.....your office/branch office with balance of Rs(words)". The pass book will after necessary entries be returned to the depositor through the office at which the account stood or the one to which it is transferred as may be indicated by the depositor in the application for transfer. The pass book will be sent to it entered in the SB/B.O. slip as the case may be. The application for transfer may be kept in Guard file in the personal custody of the A.P.M. and preserved for 3 years.

(2) **Procedure in head office when the account is to be transferred to a Sub Office authorised to issue pass books independently.**—The procedure to be followed in such cases will be the same except that the application for transfer will first be sent to the Sub Office concerned for noting the new account number. Further action for the transfer of the account in the Head Office will be taken only after the application for transfer is received back from the Sub Office with a new account number noted on the application.

(3) **Procedure in Sub Offices not authorised to issue pass books independently.**—(i) In the pass book along with the application for transfer of the account is presented at the sub office where the account stands, the sub postmaster will follow the

procedure prescribed in rule 440 (9). If however the account stands at some other office under the head office, he will follow the procedure prescribed in rule 440(12). The pass book along with the application for transfer duly date-stamped will be forwarded to the head office entered in the list of documents.

(ii) If an application for transfer is received direct in the head office or through another sub office, the sub postmaster will receive an intimation from the head office in the savings bank slip about the transfer of the account. He should make necessary entries about the transfer against the relevant account in the savings bank ledger and the specimen signature book. If the account stood in a branch office, the intimation about the transfer should be sent through the branch office slip to the branch office who should be instructed to make necessary entries in the branch office journal and specimen signature book. The date of the last transaction in the account should also be indicated to the branch office to enable the branch office to trace the account in the Branch Office savings bank journal.

(iii) On receipt of the transfer application form with additional specimen signature counter-signed by the postmaster, the sub postmaster of the office to which the account has been transferred will take action as in rule 441(C) for opening the new account in the ledger. The transfer application form will be filed in a guard file which will be kept in the personal custody of the SPM and preserved for 3 years.

(iv) If the application form contains any note to the effect "Signature differs" action should be taken as laid down in Rule 441C(i).

(4) Procedure in Sub Offices authorized to issue pass books independently.—The application for transfer will be received from Head Office, duly entered in the S. B. slip. The sub postmaster will open a new account in his ledger. The new account number will be noted on the application form as well as on the specimen signature slip which will be received along with the application form from the Head Office. Necessary entries should be made in the register of A.Ts. received, the application form being treated as an A.T. for this purpose. The S/S slip should be pasted to the specimen signature book. The application form should be returned to the Head Office, duly entered in the list of documents. In the Head Office the application form will be kept in a separate guard book in the personal custody of the M.P.M. and preserved for 3 years.

Sl No.	Name of the S.O. from which transferred (in alphabetical order)	Account number of the transferring office	Binder number of the transferring office	Amount
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1 2 3 4 5

Signature of PM(SB) in charge of the transferring office	Name of the S.O. to which the account is transferred	Account number in the new office to which the account has been transferred	Binder number of the new office	Signature of the postmaster (SB) incharge of transferee office
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6 7 8 9 10

442-A. If the number of account to be entered in the journal of accounts received on transfer from/transferred to other Head Offices, necessitates preparation of more than one sheet of the journal, the number and the amount in each sheet should be carried over to the next sheet and the total number of accounts and the total amount should be shown in the last sheet of the journal. The progressive totals at the end of the day will be shown in the last sheet of the transfer journal. In the case of big Head Offices, separate transfer journals may be prepared by each group and a summary of the journals of all the groups showing the total number and amount should be signed by the

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(4) In the application for transfer of an account opened on behalf of a minor or a lunatic the certificate "Certified that the depositor is alive this day" should be given. In the case of an unmarried female minor depositor the words "and is unmarried" shall be added in the certificate. In the case of a married female minor, only the husband can apply for transfer as the minor's guardian.

(5) In the case of a joint account, all the depositors should sign the application for transfer.

30 (6) If a security deposit account is to be transferred, the depositor must produce a letter from the pledgee sanctioning the transfer. If the depositor is a postal official a letter from the pledgee sanctioning the transfer is not necessary when the transfer is confined to the same Circle. In such cases the order issued by a first class Postmaster, Superintendent or the head of the Circle transferring the official may be regarded as an authority for the transfer of such account.

NOTE.—If the security is to be transferred to another Department of the Government, the original account should be closed and a new account opened.

(7) The depositor has to give additional specimen signatures in the transfer application form for the use of the transferee office or offices. The depositor should be requested to give one additional specimen signature if the account is to be transferred to another head office, two if the account is to be transferred to a sub office whether under the same or another head office and three if the account is to be transferred to a branch office.

TRANSFER OF AN ACCOUNT TO ANOTHER HEAD OFFICE OR TO A SUB OR BRANCH OFFICE UNDER ANOTHER HEAD OFFICE

440. (1) Procedure in Head Offices.—If the account stands at a head office and if the application for transfer along with pass book is presented at the head office, the counter clerk should see that the restrictions laid down in rule 438 on the transfer of accounts are not attracted. He should impress date stamp on the application for transfer and compare the signature on the application for transfer with the specimen signature on record. If the signature does not tally with the specimen on record it should be got attested as provided for in the case of an application for withdrawal. In case the application has been presented through a messenger and the signature of the depositor cannot be obtained

for attestation, the transfer should be effected by the head office after giving the following remarks on the application for transfer:

"Signature does not agree. The account may be opened on transfer. Withdrawals to be allowed only after proper identification of the depositor."

(2) The application for transfer should then be transferred to the miscellaneous clerk who will maintain a register of "applications for transfers received". The register will be maintained in the form given at Appendix XX.

After making the entries in the register, the miscellaneous clerk should transfer the application for transfer to the ledger clerk.

(3) The ledger clerk should compare the balance in the pass book and the application for transfer with that in the ledger card, complete the entries in the pass book if the difference is due to some transaction or interest having not been entered in it to bring it upto date and correct the balance noted in the application for transfer. He should then remove the ledger card of the account from the binder and make an entry of closure in the ledger card. The balance to the credit of the depositor with the interest right upto the end of the preceding year should be shown with the remarks in red ink "Paid by transfer to.....(S.O.)/(B.O.) underH.O. on.....for the sum of Rs..... (words and figures)" in the ledger card. He should make an entry of the transfer in the journal of transfer S. B. to be prepared in duplicate. The daily and progressive totals upto the end of the day should be shown in both the copies of the Journal. If Government securities are held in the custody of the Accountant General on behalf of the depositor the remark "Government Securities holder" should also be written in the remarks column of the journal. An intimation should be sent to the Director of Audit and Accounts, Government Securities Section, Calcutta, giving the particulars of the Securities, the date of transfer and the name of the transferee head office.

NOTE.—Separate transfer journals should be prepared for transfer to Head Offices in the same circle (Home transfer) and for transfer to Head Offices in other circles (Foreign transfer). The words "Home transfer" or "Foreign transfer", as the case may be, should be written prominently at the top of the journals. A rubber stamp as per specimen given in the margin should be affixed on the Foreign Transfer Journal to facilitate their sorting in the Central Pairing Office.

F
Name of
Circle

(c) If the signature of the depositor or of his agent, as the case may be cannot be obtained, the case should be reported to the Head of the Circle for orders.

NOTE - Where the amount does not exceed Rs. 500 the Gazetted Postmaster or Superintendent of Post Offices may pass the orders personally.

ATTESTATION OF SIGNATURE OF THE DEPOSITOR

425-A. (a) If the signature of a depositor on an application for withdrawal differs from the specimen on record, his signature may be attested by:—

- (i) A respectable person (other than the agent or messenger presenting the application) known to the Post Office.
- (ii) A Gazetted Officer of the Government including a Commissioned Officer of Army, Navy or Air Force with the seal of Office affixed.
- (iii) District Savings Officer of the National Savings Organization with the seal of Office affixed.
- (iv) Justice of Peace, Magistrates (including Honorary Magistrates) and Judges with the seal of office affixed.
- (v) Members of Parliament or Legislative Assemblies/ Councils, Presidents of Municipalities and Local Bodies, Block Development Officers, Sarpanchs of Panchayats and Village Level Workers with their seal of Office affixed.
- (vi) Principals of Colleges and Heads of recognised schools with their seal of offices affixed.

NOTE - Attestation of signature by a person will be in the following terms:—

"The Depositor is known to me and has signed in my presence".

If, however, the signature of a depositor is attested by a scheduled bank, the form of attestation may be in the following terms:—

"The depositor is known to the bank and his signature is confirmed"

The Bank can attest the signature of a depositor even when it is acting as an agent of the depositor.

(b) The Postmaster should also accept identification by means of a postal identity card, a passport or any other identity card issued by a proper authority, bearing the depositor's photograph or signature or by other document like a driving licence, railway season ticket, C.G.H.S. card etc., where the photograph or signature of the depositor is available. In such cases, the

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OF 1388 (1)

DATE 20/6

Applicant

VER

Postal Board

Respondent

1. Shoreline drift, etc.
 2. Shoreline drift etc.
 3. Shoreline drift etc.

Recd. here notice that applicant above named has presented
an application a copy of _____ hereof is enclosed herewith which
has been admitted in this Tribunal and the tribunal has fixed 20
day of _____ to show cause as to why the petition is not admitted.
_____ weeks Rejoinder if any, to be
_____ weeks thereafter for hearing.

will be heard and decided in your absence. Given my hand and the seal of the Tribunal this 26 day of 5 1992.

FOR DEPUTY REGISTRAR.

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Page 10

(c) If the signature of the depositor or of his agent, as the case may be cannot be obtained, the case should be reported to the Head of the Circle for orders.

NOTE—Where the amount does not exceed Rs. 500 the Gazetted Postmaster or Superintendent of Post Offices may pass the orders personally.

ATTESTATION OF SIGNATURE OF THE DEPOSITOR

425-A. (a) If the signature of a depositor on an application for withdrawal differs from the specimen on record, his signature may be attested by:—

- (i) A respectable person (other than the agent or messenger presenting the application) known to the Post Office.
- (ii) A Gazetted Officer of the Government including a Commissioned Officer of Army, Navy or Air Force with the seal of Office affixed.
- (iii) District Savings Officer of the National Savings Organization with the seal of Office affixed.
- (iv) Justice of Peace, Magistrates (including Honorary Magistrates) and Judges with the seal of office affixed.
- (v) Members of Parliament or Legislative Assemblies/ Councils, Presidents of Municipalities and Local Bodies, Block Development Officers, Sarpanchs of Panchayats and Village Level Workers with their seal of Office affixed.
- (vi) Principals of Colleges and Heads of recognised schools with their seal of offices affixed.

NOTE.—Attestation of signature by a person will be in the following terms:—

"The Depositor is known to me and has signed in my presence".

If, however, the signature of a depositor is attested by a scheduled bank, the form of attestation may be in the following terms:—

"The depositor is known to the bank and his signature is confirmed".

The Bank can attest the signature of a depositor even when it is acting as an agent of the depositor.

(b) The Postmaster should also accept identification by means of a postal identity card, a passport or any other identity card issued by a proper authority, bearing the depositor's photograph or signature or by other document like a driving licence, railway season ticket, C.G.H.S. card etc., where the photograph or signature of the depositor is available. In such cases, the

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