

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
O.A. No. 776/2005

Date of Order : 09.07.2009

C O R A M

HON'BLE MR. AMIT KUSHARI, MEMBER[A]
HON'BLE DR. K.B. SURESH, MEMBER[J]

Gopal Kumar Pandey, Son of Late Krishna Deo Pandey, Resident of Village/P.O. & P.S.- Khusrupur, District-Patna, Ex-Postal Assistant, Bankipur, H.O. - Patna.

.....Applicant.

-By Advocate : Shri M.P. Dixit

Vs.

1. The Union of India through Chief Post Master General, Bihar Circle, Patna.
2. Director of Postal Services (H.Q.), O/o C.P.M.G., Bihar Circle, Patna.
3. Sr. Supdt. of Post Offices, Patna Division, Patna.
4. Director of Postal Accounts, Patna-4.

..... Respondents.

By Advocate : Smt. P.R. Laxmi

O R D E R

Dr.K.B.Suresh,M[J]: Allegation against the applicant is that while he being in possession of keys on Saturday remained there in office while apparently the Post Master went on 'French leave' as stated by the

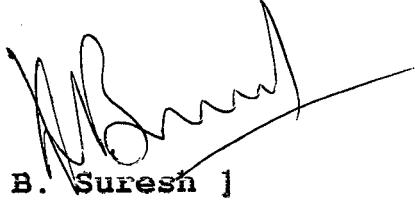


respondents. On Monday morning apparently the Post Master found that the door of the office was broken and the lock of the iron chest was cut and the cash amounting to Rs. 2,05,000/- kept in the iron safe is taken away. But the case of the respondents before the Judicial Magistrate Court was different from departmental charges. The prosecution story said the said amount was stolen by breaking upon of a door and key of the lock of iron chest where the money was kept was cut. Therefore, the applicant cannot be held responsible for such offences. There is no allegation of such nature. The respondents also admits that the applicant was honourably acquitted by the learned CJM. But they have charged the applicant with opening the chest with his bag and defalcating the money. Both are, therefore, contradictory. We are also persuaded by a decision of the Hon'ble Supreme Court as reported in 2006 SCC(L&S) 1121. Their Lordships held that if an employee is honourably acquitted in a criminal case where the findings in the departmental proceedings should be held to be unjust, unfair and offensive and such dismissal order would not be sustainable.

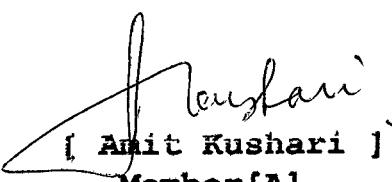
2. Therefore, having found that these two stories



cannot be true together and the police version nearer to fact due to involvement of several persons, we hold that Annexure A/4 and Annexure A/7 orders are without any justification and illegal. We, therefore, quash the same. In consequence, we further direct that the applicant may be re-instated with all consequential benefits from the date of removal with all consequential benefits within four months from the date of receipt of this order. All the arrears of pay and allowances legally payable to him shall be paid within the same period of four months and if for any reason it is not paid, such amount shall carry interest at the rate of 12%. The OA is, therefore, allowed. Issue certified copy of the order to the learned counsel for the parties as expeditiously as possible on usual application. No costs.


[MK. B. Suresh]
Member [J]

srk.


[Amit Kushari]
Member [A]