CENTRAL ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

O.A. Nos.360, 361, 363, 364, 365, 366 & 368 of 2001.

Dated this Friday the 7th September, 2001.

Hon'ble Shri Justice Birendra Dikshit, Vice Chairman
Hon'ble Shri M.P. Singh, Member (A)

O.A.No.360/2001

Shri Balu Champalal Pardeshi,
working as Postal Asstt.,
Nashik Postal Division, Nashik.
R/at, Devlali Postal Quarter,
At P.O. Devlali.
District Nashik - 422 401. .. Applicant.

O.A.No.361/2001

Shri Vitthal Kundlik Mande,
Working as S.P.M. ISP,
O.O. Nashik, at P.O., Nashik.
R/at Vithalwadi Lam Road,
Behind Balgriha, Deolali Camp,
Tal & District Nashik. .. Applicant.

O.A.No.363/2001

Shri Kuldeep Madhukar Kharde,
Working as SBPA, Nashik Road HPO, Nashik,
R/at: 'Madhumati' Opp. Hal Society,
Ramdas Swami Nagar, Gandhi Nagar,
Nashik-422006. .. Applicant.

O.A.No.364/2001

Shrimati Ratna S. Vinchure,
Working as Assistant Postmaster,
Nashik Road, H.P.P. Nashik.
R/at: Block No.3, Kanchangaga Apartment,
Jail Road, Nashik Road,
Nashik. .. Applicant.

O.A.No.365/2001

Shri Dattu Bhika Baste,
Working as Postal Asstt.
Nashik Road Post Office, Nashik.
R/at: At P.O. Chandori, Tal. Niphad,
District Nashik. .. Applicant.

O.A.No.366/2001

Shri Ashok Shankar Bhanage,
Working as Supervisor,
S.B.C.O., Nashik Road Post Office,
R/at: 378, Sanap Wada, Ghanekar Lane,
at P.O. Nashik, District Nashik. .. Applicant.

O.A.No.368/2001

Shri Suresh Kisandas Bairagi,
Working as Postal Assistant,
Nashik Road P.O., Nashik-422101.
R/at : Samtanagar, Gandhinagar,
At & Post Nashik,
District Nashik-422 006. .. Applicant.

{ Applicants by Mr.S.P. Kulkarni, Advocate }

Vs.

1. Union of India, through
Senior Superintendent of Post Office,
Nashik Postal Division,
At P.O., Nashik-422 001.

2. The Director of Postal Service,
Office of the Postmaster General,
Aurangabad Region,
Aurangabad-431 002.

3. The Director General (Posts),
Department of Posts, Dak Bhavan,
Parliament Street,
P.O. New Delhi - 110 001. .. Respondents.

{ Respondents by Ms.H.P. Shah, Advocate }

O R D E R (Oral)
[Per : Hon'ble Mr.M.P. Singh, Member (A)]

The applicants have filed these OAs under Section 19 of the Administrative Tribunals Act, 1985 and have sought relief by praying for direction to quash and set aside charge memo, punishment order dated 29.12.2000 and appellate order dated 29.3.2001. Since the facts and relief claimed by the applicants in the above OAs are similar, we proceed to dispose of these OAs by passing a common order.

2. The OA 360/2001 will be treated as a leading case. The facts of the case in OA 360/2001 are that the applicant was working as Savings Bank Ledger Clerk, P.A.,

Nashik Road Head Office. While working as SBLC PA, the applicant was served with a charge memo dated 19.10.2000 and it was proposed to take action against him under Rule 16 of CCS(CCA) Rules, 1965. The following charges were levelled aginst the applicant:

> "Shri B.C. Pardeshi was working as SBLC PA Nashik road HO on 8.6.98 had received an application for withdrawal i.e. SB-7 in respect of Sinnar S.B.Account No.1670567 for Rs.7000/- for posting the transaction in SB ledger at Nashik Road H.O. There was difference of the balance in the said account i.e. as per HO ledger the balance was Rs.459.60 and on withdrawal from SB-7 it was shown Rs.10014/-.
>
> The above warrant of payment in respect of SB AC No.1670567 in the name of Shri Rajaram Sadashiv Pandit was subject to be posted by the said Shri B.C.Pardeshi, SB LC PA Nashik Road HO but he failed to notice the difference in balance as per SB-7 and ledger card dated 8.6.98.
>
> It is therefore alleged that but for the above lapses on the part of Shri B.C. Pardeshi the further fraud committed by Shri L.S.Patil and Shri P.C.Thakur the PA Sinnar after 8.6.98 could have been avoided and that successful enquiries could have been made to locate the stage at which Shri L.S.Patil and Shri P.C.Thakur then PA Sinnar had committed the fraud. The failure on the part of above official had facilitated commission of fraud to the extent of Rs.1,58,292.50 after 8.6.98"

3. The applicant was asked to make representation against the charge memo. The applicant in his letter dated 30.10.2000 took a plea that unless he is shown relevant documents, he will not be in a position to make representation effectively. He was therefore supplied with the relevant documents except one i.e. SB-3 Card. Thereafter, the applicant submitted his detailed representation on 8.12.2000. The disciplinary authority after taking into account his representation and all the relevant material available on record passed the impugned order dated 29.12.2000 whereby an amount of Rs.40,627/- is

to be recovered from the pay of applicant in 36 instalments with effect from 1.1.2001. Thereafter, the applicant has filed an appeal to the appellate authority, who, vide its order dated 29.3.2001, rejected the appeal. Aggrieved by this, the applicant has filed this application seeking aforesaid reliefs.

4. The respondents have contested the case and have stated that the applicant was working in a responsible capacity as a ledger PA in SB Branch and handled the transactions in which fraud had taken place. Had the applicant worked according to the rules and procedure prescribed to his duties, the further fraud could have been detected. But the applicant was very negligent and overlooked all the rules and procedures and adopted his own style of working which facilitated the offenders to commit frauds. According to the respondents a further fraud of Rs.1,58,292.50 had taken place after 8.6.1998, due to the laxity in observing rules and procedures by the applicant. The total amount of recovery of Rs.7,27,596.05 is expected to be recovered from the officials involved. Out of this, Rs.1,00,189/- was recovered from the main offenders Shri L.S. Patil and Shri P.C. Thakur. The other main offender Shri K.B. Pawar committed suicide on 22.11.1998 and no amount of recovery is possible. Both the main offenders Shri L.S. Patil and Shri P.C. Thakur were dismissed from service. Hence, the unadjusted amount of recovery of Rs.6,27,407.05 is to be recovered from all the subsidiary offenders who facilitated the main offenders to commit frauds. It is further stated by

respsondents that as all the subsidiary offenders have facilitated the commission of fraud at Sinnar S.O., the loss of unadjusted Government money is therefore ordered to be recovered from all the subsidiary offenders who had direct role in handling the vouchers in which frauds took place. In view of the aforesaid submssions, the applicant is not entitled to any relief and the application deserves to be dismissed.

5. Heard both the learned counsel and perused the records.

6. During the course of the arguments, learned counsel for the applicant stated that the Superintendent who was incharge of the head office was also equally responsible to facilitate the offenders to commit fraud. It was he who had posted the main offenders Shri L.S.Patil and Shri P.C.Thakur at the cash counter after the revocation of suspension and therefore he is guilty and should have been punished. As per his information the Superintendent who was incharge of head office was allowed to take voluntary retirement. On the other hand, the learned counsel for the respondents was not aware whether any action had been taken against the Superintendent who was in charge of the HO. In any case, this argument cannot absolve the applicant from the charge levelled against him. The learned counsel for the applicant has also conceded that it is a fact that the applicant did not follow the rules and prescribed procedure while performing his duty as SB ledger Clerk.

7. After hearing both the learned counsel and perusing the records, we find that the applicant himself has admitted his guilt while submitting his written statement dated 10.2.1999(Ex.R-I). In this statement, applicant has stated that "the balance on ledger card dated 8.6.98 is Rs.459.60 and on withdrawal form it is shown as Rs.10014.25. So there is difference of Rs.9554.65. Taking into consideration DLT and balance, while posting the said transaction objection should have been raised and pass book should have been called for verification. However, due to heavy rush I failed to raise the objection and to call the passbook for verification. If I would have called the passbook it could have been detected that on 4.6.98 there is deposit of Rs.10000/accepted at Sinnar Post Office and not accounted for. The said matter is pointed out by the APM to me". Moreover, we also find that the procedure followed by the respondents in holding DE against the applicant is in accordance with rules and instructions. The applicant has been given full opportunity to defend himself and is also supplied with the required documents to prepare his defence.

8. In view of the aforesaid facts and circumstances of the case, we do not find any fault with impugned order dated 29.12.2000 passed by the respondents for making recovery of Rs.40,627/- from the salary of the applicant.

9. For the reasons stated above, OA is devoid of merit and is accordingly dismissed. The other OA Nos. 361, 363, 364, 365, 366 and 368/2001 also stand dismissed. No costs.

(M.P. Singh)
Member(A)

(Birendra Dikshit)
Vice Chairman(J)

H.