

CENTRAL ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

OA No.362/2001

Mumbai, this 7th day of September, 2001

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

Smt. Sandhya Umesh Dusane  
C-4-32, Merri Qrs., Dindori Road  
PO & Dt. Nashik, Maharashtra

.. Applicant

(By Shri S.P. Kulkarni, Advocate)

versus

Union of India, through

1. Sr. Supdt. of Post Offices  
Nashik Postal Division, Nashik
2. Director of Postal Services  
o/o PMG, Aurangabad Region  
Aurangabad
3. Director General (Posts)  
Deptt. Posts, M/Communication  
Dak Bhawan, New Delhi

.. Respondents

(By Ms. H.P. Shah, Advocate)

ORDER(oral)

By Shri M.P. Singh

The applicant has filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying for reliefs by seeking directions to the respondents to quash and set aside the charge-memo, punishment order dated 28.12.2000 and appellate order dated 29.3.2001.

2. The applicant, while working as Postal Assistant in Savings Bank Control Organisation, Nashik Road HO was issued with a charge-memo dated 20.10.2000 under Rule 16 of CCS(CCA) Rules, 1965 alleging the following charges:



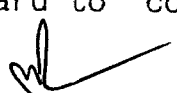
"That Smt. S.U.Dasane, PASBCO, Nasik Road had not checked the warrant of payment in respect of Sinnar 1 TD Account No.1231078 in respect of Smt. Hirabai Pataskar properly as she has failed to point out the difference in depositor's signature on the withdrawal form and irregularity regarding non-availability of Joint S/S. Verification of PA and SPM in token of having verification of the depositor's signature on the withdrawal form dated 29.8.98;

That the failure on the part of the above official has facilitated the commission of fraud to the tune of Rs.1,40,786.50 committed after 29.8.98 could have been prevented.

Thus she had failed to observe the provision of para 11(1) of Postal Manual of SB Control Pairing Internal Check Organisation (iiiird edition) corrected upto 1.12.1985 and thereby failed to maintain devotion to duty in contravention of Rule 3(1)(ii) of CCS(conduct) Rules, 1964"

3. Applicant has given her representation to the charge-memo on 3.11.2000. The disciplinary authority, after taking into account her representation, has rejected the same and passed the impugned order dated 28.12.2000 directing recovery of Rs.40,627/- from the pay of the applicant with effect from 1.1.2001. Applicant thereafter filed an appeal which was rejected by the appellate authority by order dated 29.3.2001. Aggrieved by this, applicant has filed this OA seeking the aforesaid reliefs.

4. Respondents in their reply have contested the case and have stated that while the applicant was handling SB-7 voucher TD Account 1231078, she failed to carry out the necessary checks as required under para 11(1) of Manual of SB Control procedure. She failed to detect the irregularities found on that SB-7 voucher. She also failed to verify the original SB-3 card to compare the



specimen signature of the depositor as Nasik Road HO never arranged SB-3 cards. According to the respondents, it is not clear how the applicant made objection No.27 stating that there was a difference in the depositor's signature. The new evidence put forth by her is clearly an after thought decision to escape from her responsibility and to evade the punishment. Had she felt the objection raised was serious, there could have been proper investigation to detect the frauds and to prevent further frauds taken place at Sinnar SO by taking action regarding the manner of settlement of objection as required under para 13(12) of Manual of SB Control Procedure. For the aforesaid lapse, applicant was charge-sheeted and thereafter recovery of Rs.40,627/has been ordered from her pay. According to the respondents, action taken by them is in accordance with rules and therefore the application filed by her is without foundation and devoid of merit and deserves to be dismissed with costs.

5. Heard the learned counsel for the parties and perused the records.

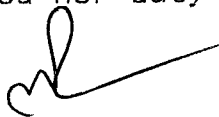
6. During the course of the arguments, the learned counsel for the applicant drew our attention to page 33 of the OA, wherein applicant has recorded the following note:

"T.D. Sinnar A/cNo.1231078 closed on 29.8.98 for Rs.42769/- i/o 42179. Int. given Rs.4769 i/o Rs.4149 Rs.620/- excess given to the depositor. Please verify and recover the excess paid amount. Also signature of depositor is differ. Please call

M.A.P. SPM not signed on warrant please call  
C.P."

The counsel for the applicant therefore submitted that the applicant as per rules and procedure has already informed the irregularities committed by the persons at Sinnar PO and the same has been brought to the notice of the higher authorities. Applicant has therefore acted properly and no amount should be recovered from her salary. On the other hand, learned counsel for the respondents submitted that the note recorded by the applicant to the above effect was an after-thought as the register is always kept with her and she might have manipulated the record at a later stage.

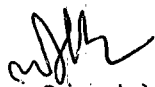
7. The learned counsel for respondents has produced the record before us. After perusing the same, we are satisfied that the applicant has pointed out the irregularities in her note in the objection register wherein she has clearly stated that an amount of Rs.620 drawn was in excess and therefore the same should be recovered. Applicant has also stated that signature of the depositor is different. We therefore find that the ground taken by the respondents in issuing her charge sheet cannot be sustained. As for the report, it is clear that the applicant has performed her duty as per

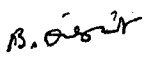


rules and has not committed any irregularities which were rather committed by persons working at the Sinnar PO.

8. In view of the facts mentioned above, applicant cannot be charged for any irregularity and therefore the order passed by respondents for effecting recovery of Rs.40,627/- cannot be sustained in the eyes of law and the same deserves to be quashed.

9. In the result, we allow this OA and quash and set aside the orders dated 28.12.2000 and 29.3.2001. We direct the respondents to refund the amounts to the applicant already recovered from her pay within a period of two months from the date of receipt of a copy of this order. Considering the facts of the case, we impose a cost of Rs.3000/(Rupees three thosand only) on the respondents to be paid to the applicant.

  
(M.P. Singh)  
Member(A)

  
(Birendra Dikshit)  
Vice-Chairman(J)

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