CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 524 of 1989(L)

Durga Prasad . . . . Applicant

Versus

Union of India & Others . . . . Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member (A)

(By Hon'ble Mr. Justice U.C. Srivastava, V.C)

The applicant was appointed as Extra Departmental Branch Post Master Parsauna, Under the account office Utraula District, Gonda on 27.9.1985. A charge-sheet was served on him under Rule 8-A of the E.D.A.'s (Conduct & Service) Rules, 1964 on 27.3.1987. The charges against the applicant were regarding irregularities committed with fraudulent intentions, but the applicant denied the charges and accordingly, an Enquiry Officer was appointed and an enquiry was held. The Enquiry Officer after holding the enquiry submitted the report, in which it was held that the charges against the applicant were proved. The Disciplinary Authority, thereafter, passed an order on 16.5.1988 removing the applicant from service.

2. The applicant filed an appeal and the Appellate Authority also discussed the pleas raised by the applicant and dismissed the appeal. The learned counsel for the applicant contended that there was no violation of the rule by the applicant, merely because insured cover undoubtedly was lost, the applicant could not be held guilty of the same or committing any financial irregularities because it was lost in transit. In

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of finding out as to who was responsible than applicant has been visited with maximum punishment.

3. According to the findings, the bag was closed at Utraula Post Office and was transferred to Parsauna Post Office directly and there was no transit in between the above two post offices and preliminary enquiry was also established the same and thus, Enquiry Officer came to conclusion that it was negligent act of the applicant. According to the respondents the provisions of Rules 169,54 and 37 of branch office rules were violated by the applicant, that is why this punishment has been given. As we do not find any fault in the enquiry, it is not possible to interfere in the matter, it can not be said that there was no violation of rules, it may be that the applicant himself may not have swallowed the amount but he can not escape liability for it; it was open to the respondents to give him maximum or minimum punishment and they have awarded him maximum punishment. No interference can be made, and accordingly, this application is dismissed. However, it is open for the respondents to consider the case of the applicant for re-employment. No order as to the cost.

Member(A.) Vice-Chairman

Lucknow Dated 7.8.1992.

(RKA)

524/86

19.2.90 On the request, Reply may be filed by 23.3.90

Regr

OR.

No reply has been recd so far.

Submitted.

A.Reg
21/3.

23/3/90 DR

On the request reply can be filed by 4/5/90.

DR(J)

4-5-90 DR

On the request reply can be filed by 31-8-90. No further time will be allowed.

DR(J)

OR
CA filed on
6.12.89

31-8-90 DR

Lawyer's strike
Adjourned to 9-10.90.

DR(J)

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD.

CA NO. 524 OF 1989

Vs.

Sl.No.	Date	Office Report	Orders
	9-10-90		DR On the request of applicant's counsel rejoinder can be filed by 29-11-90. DR(J)
	29-11-90		DR On the request of applicant's counsel rejoinder can be filed by 21-1-91. DR(J)
		OR R.A. not filed 14/1/91	
			21-1-91 Rejoinder ~~not~~ filed today. Now the pleadings are complete, let the case be ~~listed before court~~ kept in siene die list. DR
		OR RA filed and keep on record 22/1/91	

Central Administrative Tribunal
Lucknow Bench, Lucknow.

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O R D E R SHEET

~~O.A.~~/T.A. No. 121/92T.

Date	Office Report	Order

MANISH/-

of 198?

APPLICANT Durga

RESPONDENT (s) UOI (Postal Deptt)

T.A.

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 ?	Five sets.
3. a) Is the appeal in time ?	yes
b) If not, by how many days it is beyond time ?	—
c) Has sufficient case for not making the application in time, been filed ?	—
4. Has the document of authorisation/ Vakalatnama been filed ?	yes
5. Is the application accompanied by B.D./Postal Order for Rs. 50/-	yes, DD 630312 dt. 1-5-89 (50/-)
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
c) Are the documents referred to in (a) above neatly typed in double space ?	yes
8. Has the index of documents been filed and paging done properly ?	yes
9. Have the chronological details of representation made and the outcome of such representations been indicated in the application ?	yes
10. Is the matter raised in the application pending before any Court of Law or any other Bench of Tribunal ?	No

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15. Do the ... stated ... those ... action ? — Yes

16. Are th... to be... Affidavi... are ... ? — NA

17. Are the facts of the case mentioned in item No.6 of the application ? — Yes

   a) Co case ? — Yes

   b) Under distinct heads ? — Yes

   c) Numbered consecutively ? — Yes

   d) Typed in double space on one side of the paper ? — Yes

18. Have the particulars for interim order prayed for indicated with reasons ? — No

19. Whether all the remedies have been exhausted. — Yes

There is no defect. The case be registered as O.A.
29/6/89
SO (J)

(1) Register as O.A.

dinesh/

(2) Put up before court On 30-6-1989 unlisted

Registrar

Particulars to be examined | Endorsement as to result of examination

11. Are the [illegible] duplicate copy/[illegible] signed ? — yes

12. Are extra [illegible] application with Annexure's filed ? — yes

a) Identical with the Original ? — yes

b) Defective ?

c) Wanting in Annexures

Nos________Pages Nos________?

13. Have the [illegible] size envelopes bearing full addresses of the respondents been filed ?

14. [illegible] the [illegible] the [illegible] address ?

[illegible] names [illegible] the parties [illegible] copies tally with

16. Are [illegible] in the appli- to be [illegible] Affidav[illegible] [illegible]lations certified are [illegible] [illegible]orted by an — NA

17. Are the facts [illegible]ing that they mentioned in item [illegible] the application ? — yes

a) Concise ? — yes

b) Under distinct heads ? — yes

c) Numbered consecutively ?

d) Typed in [illegible] space on one side of the paper ? — yes

18. Have the particulars for interim order prayed for indicated with reasons ? — No

19. Whether all the remedies have been exhausted. — yes

There is no defect. The can be registered as O.A.

dinesh/

(1) Register as O.A.

(2) Put up before court on 30-6-1989 [illegible]

Registrar

Before The Central Administrative Tribunal, Allahabad-1

O.A. Registration No. 524 Of 1989

Durga Prasad versus Union Of India & Others

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3	A-2	30-9-88	Appellate order No. RDL/Staff/A-52/88/3	15	16
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Application u/s 19 of the Administrative Tribunal Act, 1985

Filed on 13-6-1989

O.A. Regn. No. Of 1989

Signature of Registrar

In The Central Administrative Tribunal, Allahabad-1

Between

Durga Prasad .... Applicant

AND

(1) Supdt. Posts Gonda

(2) DPS Lucknow

(3) Union Of India through Secretary
Ministry Of Communications, G.O.I.
NEW DELHI-1 Respondents

R.K. Tewari

(R.K.Tewari)
Advocate for the Applicant
154, Purshottamnagar, Allahabad-16

Durga P.

(2)

Filed today. Date for admission noted for 30-6-89
[signature]

Details of Application

1—Particulars of the Applicant :

Central Administrative Tribunal
Additional Bench At [illegible]
Date of filing 15-6-89
[illegible]
15/6/89
Dy. Registrar

(i) Name of Applicant DURGA PRASAD

(ii) Name of Father/~~Husband~~ S. Sohan Lal

(iii) Age of Applicant 32 years

(iv) Designation & Particulars of Office where employed or was last employed Ex E.D.B.P.M. [illegible], Utraula, Gonda

(v) Office Address Nil

(vi) Address for service of Notice Vill. Post [illegible], Utraula, Gonda

2—Particulars of the Respondents :

(i) Name &/or Designation (1) Supdt. Posts Gonda

(ii) Official Address (2) Director Postal Services, Lucknow

(iii) Address for service of all notices (3) Union Of India, through Secretary, Ministry Of Communications, New Delhi

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

(i) Order No. L/[illegible]/10/86-87/D.P. [illegible]/Staff/[illegible]-52/88/3

(ii) Date 16.5.1988 A/p 12-14 30.9.1988 A/p 15-16

(iii) Passed by Supdt. Posts Gonda DPS Lucknow

(iv) Subject in brief Removal from service

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 this 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.

[signature]

4(i) The applicant entered the Department of Posts as an Extra Departmental Branch Postmaster at Parsama B.O. in A/C with Utraula Sub Post Office in Gonda Postal Dn. in October 1985. On 27-3-1987 he was served with a memo. of charges comprising of six charges by the learned Supdt. Posts Gonda (Resp. No.1). The said six charges are reproduced verbatim on the first two pages of the Punishment order at Ann. A-1 on pages 12 to 14. The applicant denied the charge No.1 and hence an Enquiry Officer (I/O in short) was deputed to hold an Enquiry. The IO held the charges proved vide his Enquiry Report (E/R in short) dated 6-5-88 copy at Ann. A-3 on Pages 17 to 25. Totally relying on this E/R the learned Supdt. (Resp. No.1) awarded the applicant the punishment of Removal from Duty vide his punishment order cited above.

4(ii) The applicant preferred an appeal to the learned DPS Lucknow (Resp. No.2) on 9-7-88 vide copy at Ann. A-8 on pages 27 to 39. As the appeal too was rejected by the learned Resp. No.2 vide his appellate order dated 30-9-88 copy at Pages 15 to 16. hence this application is submitted before this Hon'ble Tribunal.

4(iii) Charges No.1, 04 and 5 relate to one and the same charge viz Non-receipt of Dharavi Bombay Insured Letter No.290 (Hereafter called Ins. letter) valued at Rs.500/- by the applicant from the B.O. Bag closed by the A/C Office Utraula on 10-11-1986 and due to the non-observance of the relevant Rules a loss of Rs.500/- was caused to the Govt.

The main point requiring Adjudication is :-

(a) Whether the loss was caused to the Govt. because the Applicant misappropriated the value of the Ins. letter fradulently by not reporting its non-receipt immediately.

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Ru Tewari Durga Pd

(b) the applicant actually did not commit fraud but the same could not be unearthed or say the Enquiry was frustrated because the applicant acted against the Rule.

If (a) is established he would not Grudge if his punishment of Removal from service is converted into that of Dismissal. In case (b) is established he does deserve to be put back to duty on making good the loss caused to the Govt. As in such cases a departmental employee is always let off with a punishment of Recovery and that too in monthly instalments not Exceeding 36 instalments.

4(iv) For taking such a decission the minutest detail of the case is a must which is described as under :-

On 10-11-1986 Utraula Post Office despatched 3 Ins. Letters to Parsauna Branch Post Office bearing No. 874, 290 and 261. The B.O. sub A/C clerk Shri Hanuman Prasad prepared a B.O.Slip for Parsauna in Duplicate by means of Pencil and Carbon. B.O.Slip is a proscribed printed form supplied in lot to each Sub/Head Post Office by the Forms Press Aligarh. On this list the B.O. clerk invoiced the said three Insured letters. Insured letter in question was entered at Serial No.2 of the slip. A total was then Struck in words and figures thus (3) Three Insureds in Hindi and Devnagri Script. He then carried it to the Cashier Shri Ram Naresh Dubey who physically verified the entry of the Insured letters and signed each copy separately in token of having carried out the check. He also entered the total No. of Insured letters in the red ink just above his Signature on the Pencil Copy of The B.O. Slip but omitted to write that ~~number~~ total on the Carbon Copy. The Cashier Shri Dubey has clearly admitted this omission in his statement dated 16-3-88 given before the I/O and

वकालतनामा

बअदालत The Central Administrative Tribunal Allahabad

नम्बर मुकदमा .... सन् १९89 ई०

नम्बर इजारा C.A. Regn. NO of 1989 सन् १९ ई०

मुद्दई

Durga Prasad बनाम U.O.I. & others अपीलान्ट

मुद्दालैह

मैं Durga Prasad aged 32 years रेस्पान्डेन्ट

मैं/हम S/O Shri Sahas Ram

निवासी R/O Vill. Post Parsauna (Utraula) Dist Gonda

श्री R.K. Tewari Advocate 154, Purshottam Nagar, Allahabad-16

को उपरोक्त मुकदमे की पैरवी के लिये मेहनताना अदा करने को 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 पैरबी 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 डिग्री प्राप्त हो जाय तो उसे जारी करावे, डिग्री 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 दे 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 जरूरी समझें पैरवी के लिए अपनी ओर से कोई दूसरा वकील नियुक्त करें यदि आवश्यकता हो तो अपील या निगरानी दायर करें और अपील निगरानी की अदालत में पैरवी करें और यह भी वचन देता हूं / देते हैं कि यदि मैं / हम पूरी फीस या खर्च न अदा करूं / करें तो वकील साहेब व उनके क्लर्क बहस व पैरवी के लिये बाध्य न होगें।

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 हम सदैव ही मेरे/हमारे किये के समान सर्वथा मान्य होगा।

तारीख 8th माह May 1989 सन् १९ ई०

Accepted R.K. Tewari

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copyappended at Ann. A-6 on pages 40 & 41 . To write the total number of Insured letters being despatched by the cashier is not warranted by Rule 635 of P&T Manual Vol. VI part III but it is being written traditionally all over India. This Tradition has become such a deep routed custom that it has acquired the force of Law. This is why Shri Dubey the Cashier has stated in his statement that in the rush of work he omitted to write the total No. of Insured letters despatched in words & figure on the Carbon copy of the B.O. Slip. The cashier himself wrapped the three Insured letters with the Carbon copy of the B.O. Slip tied it with a cotton twine, placed it in the B.O. Bag for Parsaona in the immediate presence of Shri Hanuman Prasad and then got the B.O. Bag tied and sealed before the joint presence of S/Shri Hanuman Pd & R.N. Dubey. The B.O. BAG was then passed on to the mail Branch for further despatch to Parsaona B.O. through Runner.

4(v) Taking advantage of the said omission committed by the cashier some miscreant with the connivance of the Runner/ or the Runner himself abstracted the Insured letter by opening the B.O. Bag and scoring the entry of the Ins. letter in red ink and also correcting the total from 3 to two in red ink. The bag would then have been closed and its original seal must have been superimposed due to which the seal impression must have become quite illegible which the applicant could not mark. The applicant further failed to mark that although the total of Ins. letters given in figure was changed from 3 to 2 the total given in words remained undisturbed All this happened because the applicant was a quite new man (Appointed in October 1985) had never seen any such fraud. The applicant could realise what had happened

R.N. Tewari

Durga Pd

when he was asked by the Account office on 11.11.86 viz. the next day to acknowledge the receipt of the Ins. letter. He then made a report regarding the non-receipt of the Ins. Letter.

4(vi) Had any enquiry been made at the transit point it is sure some Clue must have been caught. Moreover it is the first principle of making an Enquiry into a case of Loss/Fraud to start from the point where the bag was closed and to proceed on as the bag proceeded. Here in the instant case the enquiry had no been conducted from all those who handled the bag in transit. Thus the Enquiry is quite incomplete and the Disciplinary proceedings based thereon are not maintainable.

4(vii) A perusal of the Enquiry Report will show that the I/O has wilfully concealed the facts deposed by Shri Ram Naresh Dubey from mentioning it in his Enquiry Report, discussing it and offerring his opinion thereon. A copy of the Statement given by the treasurer Shri Dubey on 16-3-88 before theI/O is appended herewith at Ann. A-6 on Pp 40-41 . In this statement Shri Dubey has clearly admitted that he forgot to write the total of Insured letters on the carbon copy of the B.O.Slip although he wrote that on the Pencil/Office copy. The I/O further omitted to mention in his Enquiry Report another grossest omission on the part of the Inspector Shri R.K.Tewari who failed to make any enquiry on the point whether the red ink with which the Ins. letter was scored out and the carbonic total 3 was changed into 2 was available in the mail branch or elsewhere in Utraula P.O. His stt.before the I/O is reproduced below

स्याही की भिन्नता के विषय में कोई जांच लेखा कार्यालय में मैंने नहीं किया था क्योंकि लेखा कार्यालय ने ऐसा करना स्वीकार नहीं किया था।

R.K.Tewari   Durga Pd

Without caring to see so many shortcomings in the Enquiry and the Preliminary Enquiry the learned Supdt. has held that it was the applicant who scored the entry of the Ins. letter in red ink and it was he who changed the total from 3 to 2. He was therefore believed to have committed the fraud & misappropriation himself.

4(viii) The Enquiry Report is further not maintainable because the I/O has exceeded his jurisdiction. In para 1 of the charges (which also has been denied) the Disciplinary authority has charged the applicant for his failure to observe the provisions of Rule 169 of B.O. Rules. The I/O's jurisdiction was thus limited to enquire into the fact whether the applicant actually violated the said Rule 169 or not. He has given in his findings that the applicant has violated Rule 169 inter-alia he has also violated the provisions of Rules 37 & 54 Such a finding is unwarranted & the I/O having exceeded his jurisdiction his Enquiry Report is not maintainable.

4(ix) The learned Supdt. has charged the applicant for violating the provisions of Rule 169 of B.O.Rules & Rule 17 of EDA(S&C) Rules 1964. An extract of these Rules is reproduced as Ann. A-4 on Page 26 . It may kindly be observed that the provisions of these Rules have not been violated by the applicant. The entry of Ins.290 was scored in red ink; the total 3 was also changed from 3 to 2 thus the applicant was perfectly justified in not copying the entry of this Insured from B.O.Slip into B.O. Journal. In fact as aforesaid the applicant had failed to observe the provisions of Rule 37 of B.O. Rules. As the applicant was not charged for his failure to observe the provisions of Rule 37 he can not be punished for the same.

4(x) The Resp. No.1 is an officer promoted from Inspector's

R. Tewari Durga Pd

cadre. During his carrier as an Inspector he must have been mostly dealing with B.O. Rules and yet such a seasoned Officer framed a wrong charge-sheet on which the punishment of Removal from service is never warranted, how he expected the applicant a n novice BPM to have known the intricacies of Rule 37 of B.O. Rules and to have acted as per its provision.

4(xi) Had a departmental Postal Assistant been there in the place of the Poor Applicant it would never have been possible to award him the same punishment of removal from service. In case of a departmental employee only half the amount of the value of Insured would have been recovered from him and the rest half would have been recovered from the Treasurer cum Cashier Shri Dubey

4(xii) (a) The appellate authority has added violation of Rules 37 & 54 of B.O.Rules by the applicant in Para 2(KA) of the his appellate order. Such a material addition in the Memo of charges to make it maintainable and that too at the appellate stage is not warranted by any rule.

(b) The omission on the part of Treasurer/Cashier to write the total number of Insured letters being despatched on the Carbon copy of B.O.Slip meant for the applicant has been ignored by the learned Appellate authority on the ground that the same was not warranted by Rule. He has altogether left the applicant's argument that the Treasurer/Cashier has violated the deep routed Tradition being followed all over India of writing the total no. Insured letters being despatched uncontroverted. The Treasurer/Cashier has himself admitted this omission in his stt. dated 16-3-88 given before the I/O & appended herewith as Ann. A-6 on pages 40 & 41.

(c) Giving his finding on the most vital part of the case whether the Ins. Letter in question reached Parsama

R. Tewari Durga Pd

or not the learned DPS has stated thus -
इसी बिन्दु का दूसरा पक्ष जो अपीलार्थी ने उठाया है कि क्या वह बीमा परसैना डाकघर पंहुचा अथवा नहीं इस विषय के बैग लेबुल आदि यदि सुरक्षित होते तभी कुछ कहा जा सकता था किन्तु अपीलार्थी ने स्वयं उन्हें समाप्त कर दिया अत: बीमा पत्र का पंहुचना नहीं सिद्ध माना जायेगा।

(d) Notwithstanding the fact that the receipt of Ins. letter by the applicant can not be said with any certainty the applicant has been punished for its definite receipt and also fraudulent misappropriation. Although the DPS has also not opined that the Insured letter in question was definitely received by the applicant yet he has upheld the punishment awarded to him for an alleged misappropriation of the Ins. letter.

In view of these facts the appellate order is not maintainable.

4(xiv) The remaining three charges described in paras 2,3 & 6 are mere clerical omissions deserving little notice as also confirmed by the Resp. No.2.

5. GROUNDS OF RELIEF :-

(a) Because the I/O has exceeded his jurisdiction for he was asked to Enquire & report whether or not the applicant had violated the provisions of Rule 169 of B.O. Rules, he has reported that the applicant has inter-alia violated rules 37 & 54 also.

(b) because the I/O has wilfully suppressed from mentioning in his E/R the most important omission on the part of Treasurer/Cashier to note on the carbonic copy of the B.O. Slip total no. of Insured letters being despatched.

(c) Because the Preliminary enquiring Officer Shri Tewari has clearly admitted in his [illegible] stt. before the I/O that he did not make any enquiry about the red ink which was used in scoring the entry of Ins. letter and in changing the the total from 3 to2 & the I/O also did not mention this fact in his E/R.

R Tewari

Durga Pd

(d) Because no enquiry was made at the transit point where alone the fraud is strongly suspected to have been committed, thus the whole Enquiry proceeding is quite meaningless.

6. Matters not previously filed or pending with any court -

The applicant further declares that he had not previously filed any application, writ petition, or suit regarding the matter in respect of which this application has been made before any court of law or any other authority or any other bench of this Tribunal and nor any application, writ petition, suit is pending before any of them.

7. Remedies exausted :-

The applicant preferred an appeal to DPS Lucknow who rejected the same vide his appellate order dated30-9-88 at Ann. A-2 on pages 15 to 16.

8. Reliefs sought for :- The applicant prays for the following reliefs -

(i) The punishment order No.L/Ml/10/86-87/DP dated 16-5-88 and the Appellate order No.RDL/Staff/A-52/88/5 dated 30-9-88 issued by the Respondents No.1 & 2 respectively may both be set aside as they both are not maintainable.

(ii) The applicant may be put back to duty from retrospective effect.

(iii) He may be granted the cost of this suit. He may further be granted all other reliefs deemed fit by the Hon'ble Tribunal.

9. There is no prayer for any Interim Relief.

Durga Pd

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.

10—Matters not previously filed or pending with any court :

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any court of law or any other authority or any other Bench of the Tribunal and nor any such application, writ petition or suit is pending before any of them.

10– If application is sent by Regd. Post, does the applicant desire to have oral hearing at the Admission stage if so he must attach a self addressed P. C. NO

12—Particulars of the Postal Order in respect of the application :

(i) No. of I. P. O. DD 630312 3

(ii) Name of Issuing P. O. Purshottamnagar, Allahabad

(iii) Date of Issue 1-5-89

(iv) P. O. at which payable— Allahabad Head Post Office

12—List of enclosures :

(i) Vakalatnama

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

(iii) Six documents to be relied upon

In verification

I, Durga Pd. S/o Shri Sahas Ram aged 32 years R/O Vill. Post Parsauna, Gonda and working as E.D.B.P.M. Parsauna do hereby verify that the contents from Paras 1 to 12 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place—Allahabad

Date 13-6-1989.

Signature of applicant

To

The Registrar, Central Administrative Tribunal, Allahabad - 211001

R. K. Tewari

(R. K. Tewari)

Advocate

154, Purushottam Nagar,

Allahabad—16

Annexure A1

भारतीय डाक विभाग
कार्यालय अधीक्षक डाकघर, गोंडा मंडल,
गोंडा-271001.

ज्ञापन सं0-एल-अधि/10/86-87
दिनांक 16.5.1988.

श्री दुर्गाप्रसाद कार्य निमुक्त शाखा पोस्टमास्टर परसौना (गोंडा) को इस कार्यालय के ज्ञापन सं0-सम दिनांक 27.3.87 द्वारा सूचित किया गया था कि उनके विरुद्ध डाक व तार अ.वि.एजेन्ट (आचरण तथा सेवा) नियमावली 1964 के नियम 8 के अन्तर्गत जाँच की कार्यवाही प्रस्तावित है। उक्त ज्ञापन के साथ आरोपों का विवरण, सम्बन्धित प्रलेखों तथा साक्षियों की सूची भी प्रेषित की गयी थी एवं उनसे कहा गया था कि वे आरोपों का स्वीकार अथवा अस्वीकार करने से सम्बन्धित प्रतिवेदन 10 दिन के अन्दर प्रेषित करें। आरोपों का विवरण निम्नलिखित है।

1-उक्त श्री दुर्गा प्रसाद ने शा.पो.मा. परसौना के पद पर कार्य करते हुए दिनांक 10.11.86 को लेखा कार्यालय उतरौला से शाखा डाकघर पर्ची के साथ तीन बीमा पत्र प्राप्त किये परन्तु उन्होंने धारावी बीमा पत्र सं0- 290 मू. 500/- रू. को स्वीकार नहीं किया एवं शाखा डाकघर जर्नल में अंकित नहीं किया। उक्त बीमा पत्र उतरौला डाकघर के उप लेखा डाक सहायक तथा खजांची ने शाखा डाकघर थैले में बन्द करके शाखा डाकघर परसौना में भेजा था परन्तु बंधनीयता से उक्त श्री दुर्गा प्रसाद ने उक्त बीमे की प्राप्ति स्वीकार नहीं की। एतद्द्वारा यह आरोपित है कि उक्त श्री दुर्गा प्रसाद ने शाखा डाकघर नियमावली के नियम 169 के प्राविधानों का उल्लंघन करते हुए कर्तव्यनिष्ठा व सत्यनिष्ठा न बनाये रखकर डाकघर व तार अ.वि.ए. (आचरण तथा सेवा) नियमावली, 1964 के नियम 17 के प्राविधानों का उल्लंघन किया।

2-उक्त श्री दुर्गा प्रसाद ने शा.पो.मा. परसौना के पद पर कार्य करते हुए दिनांक 29.9.86 को बीमा पत्र सं0- 264 मू. 600/- रू. की प्राप्ति स्वीकार नहीं की जब कि उसके साथ अन्य 3 बीमा पत्र भी भेजे गये थे जिसे उन्होंने अपने दैनिक लेखा के माध्यम से पाना स्वीकार किया। उन्होंने अपने बयान दिनांक 14.10.86 के द्वारा स्पष्ट किया कि उक्त बीमा पत्र उन्होंने भूल से दैनिक लेखा पर नहीं दर्ज किया था। इस प्रकार की लापरवाही करके उक्त श्री दुर्गा प्रसाद ने विभागीय [illegible] का उल्लंघन किया। एतद्द्वारा यह आरोपित है कि उक्त श्री दुर्गा प्रसाद ने शाखा डाकघर नियमावली के नियम 169 के प्राविधानों का उल्लंघन करते हुए कर्तव्यनिष्ठा व सत्यनिष्ठा न बनाये रखकर डाकघर व तार अ.वि.ए. (आचरण तथा सेवा) नियमावली 1964 के नियम 17 के प्राविधानों का उल्लंघन किया।

3.उक्त श्री दुर्गा प्रसाद ने शा.पो.मा. परसौना के पद पर कार्य करते हुए दिनांक 13.11.86 को अपने दैनिक लेखा पर बीमा पत्र सं0-517 के स्थान पर बीमा पत्र सं0- 345 का प्राप्त होना दिखाया [illegible] कि उप डाकघर उतरौला से उस डाकघर पर्ची पर बीमा पत्र सं0- 517 चढ़ाकर उन्हें [illegible] गया था। अपने

क्रमशः:

Durga Pd

(A)

दिनांक 15·11·86 में उक्त श्री दुर्गा प्रसाद ने स्वीकार किया कि भूल से उन्होंने 517/1100/- के स्थान पर 345/1100-00 लिख दिया था एतद्द्वारा यह आरोपित है कि उक्त श्री दुर्गा प्रसाद ने शाखा डाकघर नियमावलीके नियम 175 के प्राविधानों का उल्लंघन करते हुए कर्तव्यनिष्ठा व सत्यनिष्ठा न बनाये डाक व तार अ·वि·ए·[आचरण तथा सेवा] नियमावली 1964 के नियम 17 के प्राविधानों का उल्लंघन किया ।

4–उक्त श्री दुर्गा प्रसाद ने शा·पो·मा· परसौला के पद पर कार्य करते हुए दिनांक 10·11·86 को शाखा डाकघर पर्ची प्राप्त किया । जिस पर तीन बीमा पत्र चढ़े हुए थे । उनका कहना है कि धारावी बीमा पत्र सं0- 290 प्राप्त नहीं हुआ परन्तु उन्होंने न तो 10·1·86 के दैनिक लेखा पर बीमा प्राप्त होने सम्बन्धी कोई सूचना लिखी और न ही 10·11·86 को सम्बन्धित अधिकारियों को सूचित किया । उन्होंने सम्बन्धित डाक पैले को भी सुरक्षित नहीं रखा । शाखा डाकघर थैला उन्हें दिनांक 10·11·86 को 13·30 बजे प्राप्त हुआ था । यदि उक्त बीमा पत्र सं0- 290 प्राप्त नहीं हुआ था तो उन्हें उसी दिन तुरन्त लेखा कार्यालय उप मण्डलीय निरीक्षक तथा मण्डलीय कार्यालय गोंडा को देना चाहिए था । नियमानुसार कार्यवाही न करके उक्त श्री दुर्गा प्रसाद ने 11·11·86 को रजिस्टर्ड पत्र द्वारा सम्बन्धित अधिकारियों को सूचित किया एवं अपने दैनिक लेखा दिनांक 10·11·86 पर कुछ भी इस सम्बन्ध में नहीं लिखा । इस प्रकार यह आरोपित है कि उक्त श्री दुर्गाप्रसाद ने शाखा डाकघर नियमावली के नियम 17 तथा 54 का उल्लंघन करते हुए कर्तव्यनिष्ठा व सत्यनिष्ठ न बनाये रखकर डाक व तार अ·वि·ए·[आचरण तथा सेवा] नियमावली ·1964 के नियम 17 के प्राविधानों का उल्लंघन किया ।

5·उक्त श्री दुर्गा प्रसाद ने शा·पो·मा· परसौला के पद पर कार्य करते हुए दिनांक 10·11·86 को लेखा कार्यालय उतरौला से शाखा डाकघर पर्ची प्राप्त की जिस पर तीन बीमा पत्र चढ़े हुए थे एवं किसी प्रकार की काट पीट नहीं थी परन्तु उन्होंने बीमा पत्र सं0-290 मू·500/- की प्रविष्टि को अपने हाथों से काट दिया तथा उक्त बीमे की प्राप्ति स्वीकार नहीं की । इस प्रकार उन्होंने सरकारी कोष को 500/- रू· की क्षति पहुँचायी । एतद्द्वारा यह आरोपित है कि उक्त श्री दुर्गा प्रसाद ने कर्तव्य निष्ठा व सत्यनिष्ठा न बनाये रखकर डाक व तार अ·वि·ए· आचरण तथा सेवा] नियमावली 1964 के नियम 17 के प्राविधानों का उल्लंघन किया ।

6–उक्त श्री दुर्गा प्रसाद ने शा·पो·मा· परसौला के पद पर कार्य करते हुए दिनांक 11·11·86 को अपने दैनिक लेखा में धनादेश भुगतान की मद में 165/- दिखाये जब कि उनके द्वारा प्राप्त धनादेश पेड वाउचरों का कुल योग 160/-रू0 ही होता था अपने इस कृत्य से उक्त श्री दुर्गाप्रसाद ने सरकारी नकदी 5/-रू· का दुर्विनियोग करने का प्रयत्न किया । एतद्द्वारा यह आरोपित है कि उक्त श्री दुर्गा प्रसाद ने शा·डा·नि· के नियम 174 तथा 175 के प्राविधानों का उल्लंघन करते हुए कर्तव्यनिष्ठा व सत्यनिष्ठा न बनाये रखकर अ·वि·ए·[आचरण तथा सेवा] नियमावली 1964 के नियम 17 के प्राविधानों का उल्लंघन किया ।

क्रमशः 3

Durga Pd

उक्त ज्ञापन की प्राप्ति के पश्चात आरोपित कर्मचारी ने अपनी गलती मानी परन्तु बीमा पत्र का प्राप्त करना स्वीकार नहीं किया।अत: यह पता लगा लेने के पश्चात कि आरोप पत्र दिनांक 1-4-87 को वितरित किया गया था, दिनांक 10-9-87 को श्री वी-सी-राज सहायक अधीक्षक को जाँच अधिकारी तथा श्री के-बी- श्रीवास्तव बचत विकास अधिकारी को प्रस्तोता अधिकारी नियुक्त किया गया । 1-4-87 से 10-9-87 के बीच कर्मचारी ने बार-बार लिखकर यह इच्छा व्यक्त की कि सरकारी क्षति 500/- को स्वेच्छा से जमा करने को तैयार है यदि उन्हें सेवा में वापस लेलिया जाय । चूँकि यह सहमति शर्तों के साथ थी इसलिए उन्हें यह लिखा गया कि यदि वे चाहें तो धनराशि जमा करने के लिए स्वतन्त्र है क्योंकि क्षति उनकी लापरवाही से हुई है । परन्तु उन्होंने यह धन जमा नहीं किया । दिनांक 24-9-87 को श्री के-बी-श्रीवास्तव के स्थान पर श्री डी-एन-तिवारी को प्रस्तोता अधिकारी नियुक्त किया गया परन्तु बाद में दिनांक 15-1-88 के आदेश द्वारा श्री डी-एन- तिवारी के स्थानपर श्री एस-एल- त्रिपाठी परि-निरीक्षक को प्रस्तोता अधिकारी नियुक्त किया गया और उन्होंने जाँच रिपोर्ट प्रस्तुतकरने तक प्रस्तोता अधिकारी के रूप में कार्य किया । जाँच अधिकारी ने निर्धारित कार्य विधि का पालन करते हुए दिनांक 6-5-88 को अपनी जाँच रिपोर्ट प्रस्तुत की और सभी आरोपों को सत्य पाया।जाँच अधिकारी ने तथ्यात्मक विवरण देते हुए यह सिद्ध किया है कि बीमा पत्र आरोपित कर्मचारी द्वारा जानबूझ कर गायब किया गया है । अन्य सभी आरोपों को भी जाँच अधिकारी ने सत्य सिद्ध पाया है और मैं जाँच अधिकारी की आख्या से पूर्णतया सहमत हूँ ।

मैंने पूरी पत्रावली,जाँच अधिकारी की जाँच रिपोर्ट सम्बन्धित प्रलेखों तथा मौखिक जाँच के दौरान प्रस्तुत किये गये साक्ष्यों का भली भाँति अध्ययन किया और मैं इस निष्कर्ष पर पहुँचा हूँ कि आरोपित कर्मचारी इतना लापरवाह रहा है कि उसने कभी भी सन्तोषजनक ढंग से कार्य नहीं किया । तथा बीमापत्रों के दुरुपयोग करने की मंशा से उसने आरोप संख्या 2 से 4 तक में दिखाये गये डाक वस्तुओं के बारे में अभिलेखों में सन्देहात्मक स्थिति पैदा की ।

एक ऐसा कर्मचारी जो बीमा पत्र प्राप्त करके भी उसके न प्राप्त होने की गलत रिपोर्ट करता है तथा स्पष्ट रूप से अपने हाथों से बी-ओ-स्लिप की कार्बन कापी पर बीमा पत्र के इन्दराज को काट देता है वह किसी भी दशा में विभाग में रखने के योग्य नहीं है । प्रदर्श क-2 तथा क-5 पर प्रविष्टियाँ समान है और लेखा कार्यालय द्वारा प्रयोग की गयी लाल स्याही एक है । जिस स्याही से सन्दर्भित बीमा पत्र की प्रविष्टि को काटा गया है वह स्याही वही है जो शाखा पोस्टमास्टर ने प्रयोग की है यह पूरी तरह आरोपित कर्मचारी की चाल-साजी को पुष्टि करता है । सभी आरोपों की विवेचना के पश्चात् मैं यह पाता हूँ कि यदि आरोपित कर्मचारी को विभाग में रखा गया तो वह विभाग को गम्भीर क्षति पहुँचा सकता है ।

अत: एतद्द्वारा मैं आर-एस-सिंह,अधीक्षक डाकघर गोंडा मण्डल,उक्त श्री दुर्गा प्रसाद शाखा पोस्टमास्टर परसौना को तत्काल प्रभाव से सेवा से हटाने (Removal from service) का आदेश देता हूँ ।

(आर-एस- सिंह)
अधीक्षक डाकघर
गोंडा मंडल,
गोंडा-271001

Photo
L
R.S. Tewari
Durga Pd

-15-

Annexure A2

भारतीय डाक विभाग

कार्यालय निदेशक डाक सेवायें, लखनऊ क्षेत्र, लखनऊ-7

ज्ञापन सं0: आरडीएल/स्टाफ/ए-52/88/3 दिनांक 30.7.88

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प्रस्तुत मामला श्री दुर्गा प्रसाद, भू0 पू0 शाखा डाकपाल परसौना [गोण्डा] द्वारा की गई अपील दिनांक 9.7.88 का है। अपीलार्थी को अधीक्षक डाकघर गोण्डा के ज्ञापन संख्या: एल/अनि./10/86-87 दिनांक 16.5.88 को सेवा से निष्कासन का आदेश पारित किया गया था। उसी के विरुद्ध यह अपील प्राप्त हुई है।

2. अपीलार्थी के विरुद्ध मामले का संक्षिप्त विवरण इस प्रकार है:

[क] दिनांक 10.11.86 को परसौना शाखा डाकघर के लेखा कार्यालय उतरौला बाजार द्वारा शाखा डाकघर पर्ची परअंकित कर तीन बीमा पत्र भेजे गये थे जिनमें धारावी [बम्बई] का बीमा पत्र संख्या 290 धनराशि रू0 500/= भी था किन्तु अपीलार्थी ने इस बीमा पत्र की प्राप्ति स्वीकार नहीं किया, शाखा डाकघर पर्ची की कार्बन प्रति पर इस बीमा की प्रविष्टि को लाल स्याही से काट दिया, सम्बन्धित बी.ओ.बैग को सुरक्षित नहीं रखा, घटना की कोई रिपोर्ट उच्च अधिकारियों को तत्काल नहीं किया। इस प्रकार उसने विभाग को 500/- रुपये की क्षति पहुँचाई तथा शाखा डाकघर नियमावली के नियम 37,54,169 तथा अतिरिक्त विभागीय अभि. [आचरण एवं सेवा] नियमावली 1964 के नियम-17 का उल्लंघन किया।

[ख] दिनांक 29.7.86 को शाखा डाकघर पर्ची पर अंकित बीमा पत्र संख्या 264 धनराशि रुपये 600/- की प्राप्ति स्वीकार न कर शाखा डाकघर नियमावली के नियम 169 तथा अतिरिक्त विभागीय अभिकर्ता [आचरण एवं सेवा] नियमावली 1964 के नियम-17 का उल्लंघन किया।

[ग] दिनांक 13.11.86 को अपने दैनिक लेखा पर बीमापत्र संख्या 517 के स्थान पर 345 लिख कर शाखा डाकघर नियमावली के नियम 175 तथा अतिरिक्त विभागीय अभिकर्ता [आचरण एवं सेवा] नियमावली 1964 के नियम-17 का उल्लंघन किया।

[घ] दिनांक 11.11.86 को शाखा डाकघर के धनादेश भुगतान में रुपये 180/- के स्थान पर रुपये 165/- हिसाब में लेकर 5/- रुपये के दुर्विनियोग का प्रयास किया। इस प्रकार शाखा डाकघर नियमावली के नियम-174,175 तथा अतिरिक्त विभागीय अभिकर्ता [आचरण एवं सेवा] नियमावली 1964 के नियम-17 का उल्लंघन किया।

3. उपरोक्त आरोपों पर आधारित एक ज्ञापन अधीक्षक डाकघर गोण्डा के ज्ञापन संख्या: एल/अनि./10/86-87/डी.पी. दिनांक 27.3.87 के माध्यम से जारी कर अपीलार्थी के विरुद्ध नियम-8 की कार्यवाही प्रारम्भ की गई। आरोपों को अस्वीकार करने पर विस्तृत जांच हेतु श्री वी0सी0राज, सहायक अधीक्षक डाकघर गोण्डा को जांच अधिकारी तथा श्री के0बी0श्रीवास्तव, को प्रस्तोता अधिकारी नियुक्त किया गया। मामले में दो बार

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प्रस्तोता अधिकारी बदले गये और जांच पूर्ण होने के समय श्री एस•एल• त्रिपाठी, परिवाद निरीक्षक को प्रस्तोताअधिकारी थे । जांच अधिकारी नें अपनी आख्या दिनांक 6•5•88 को प्रेषित किया तथा सभी आरोपोंसिद्ध पाया । जांच अधिकारी की आख्या से सहमति व्यक्त करते हुये अनुशासनिक अधिकारी ने उक्त दण्डादेश पारित किया जिसके विरूद्ध विचाराधीन य अपील प्राप्त हुई है ।

4• मैंने, आरोपपत्र, जांच आख्या, साक्ष्यों, दण्डादेश, अपील तथा सम्बन्धित अभिलेखों का सम्यक् अवलोकन तथा अध्ययन किया है । अपीलार्थी ने अपील के प्रारम्भ में ही श्री आर०के०त्रिपाठी, उप मण्डलीय निरीक्षक के विरूद्ध कुछ आरोप लगाये हैं और कहा है कि सारा मामला उन्हीं के द्वारा रचित षणयन्त्र है किन्तु अपने कथन के पक्ष में कोई विचारणीय अथवा ठोस प्रमाण नहीं दिये हैं । ऐसा प्रतीत होता है कि अपीलार्थी ने केवल अपने विरूद्ध लगाये गये आरोपों के गुरूत्व को क्षीण करने के दृष्टिकोण से ही किया है । अपील में उठाये गये अन्य महत्वपूर्ण मुद्दे निम्न प्रकार हैं:

(क) जांच प्रक्रिया केन्द्रीय सिविल सेवा (वर्गीकरण नियंत्रण एवं अपील) नियमावली 1965 के नियम-14 के प्रावधानों के अनुरूप नहीं सम्पादित किया गया है ।

(ख) क्या बीमा संख्या 290 धनराशि 500/- वास्तव में दिनांक 10•11•86 को लेखा कार्यालय द्वारा भेजा गया था और परसौना शाखा डाकघर में प्राप्त हुआ था ।

(ग) दिनांक 29•9•86 को बीमा पत्र संख्या-264 की प्राप्ति न स्वीकारना, बीमा संख्या-517 के स्थान पर 345 लिखना तथा 11•11•86 को धनादेश के हिसाब में रूपये 160/- के स्थान रूपये 165/-(एक सौ पैसठ) रूपये दिखाना महत्वहीन घटनायें हैं और इनके लिये सेवा से निष्कासन का आदेश नहीं पारित किया जाना चाहिये ।

5• उपरोक्त बिन्दुओं पर विवेचना नीचे की पंक्तियों में किया जा रहा है:

(क) जहाँ तक प्रथम मुद्दे का प्रश्न है अपीलार्थी का तर्क यह है कि अपीलार्थी का बचाव सहायक दिनांक 21•3•88 को जांच में सम्मिलित नहीं हो सका था, अतएव उस दिन जांच प्रक्रिया रोक देनी चाहिये थी और उसे अपना "लिखित सार" देने का समुचित अवसर नहीं दिया गया । जहाँ तक बचाव सहायक की अनुपस्थिति में जांच कार्यवाही रोकने की प्रश्न है ऐसा कोई प्रावधान नहीं है । यदि बचाव सहायक नहीं आ सकता था तो उस दिन अपीलार्थी किसी अन्य सरकारी कर्मचारी की सेवायें ले सकता था । "लिखित सार" के लिये समुचित अवसर न उपलब्ध कराने के लिये अपीलार्थी का कहना है कि दिनांक 25•3•88 को जांच अधिकारी का सार उन्हें दिनांक 2•4•88 को मिला, जबकि दिया गया समय 31•3•88 को समाप्त हो गया था । पुनः दिनांक 7•4•88 को लिखा गया किन्तु इसकी प्रति बचाव सहायक को नहीं दी गई । उसे दि० 18•4•88 तक का समय दिया गया था । केन्द्रीय सिविल सेवा (वर्गीकरण नियंत्रण एवं अपील) नियमावली 1965 के नियम-14(19)

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Durga Pd

में आरोपित कर्मचारी को लिखित सार देने की बात कही गई। यह आरोपित कर्मचारी का दायित्व है कि वह लिखित सार तैयार कराने की व्यवस्था करें। अतः इन मुद्दों पर जाँच प्रक्रिया में कोई त्रुटि दृष्टिगोचर नहीं होती और यह तर्क निराधार है।

(ख) दूसरे विन्दु पर अपीलार्थी का यह कथन है कि चूंकि शाखा डाकघर पर्ची पर लेखा कार्यालय के खजान्ची ने अंकों में भेजे जाने वाले बीमा पत्रों की संख्या नहीं लिखा था अतः उसकी दृष्टि में यह जान बूझ कर उसे फसाने के लिये किया गया था। डाक तार नियमावली खण्ड-छः के भाग-III का नियम 635 (4)(7) के द्वारा उस अभिलेख पर सूक्ष्म हस्ताक्षर करने का ही आदेश देता है जिस अभिलेख पर बीमा पत्र चढ़ाये गये हैं। इस प्रकरण में भी उक्त प्रावधानों का पालन नहीं हुआ है। अतः बीमा पत्रों की संख्या का न लिखा जाना मामले की सत्यता पर कोई विपरीत प्रभाव नहीं डालता है। पुनश्च बीमा पत्रों को शाखा डाकघर थैले में खजान्ची तथा उप लेखा सहायक की उपस्थित में डालना अनिवार्य शर्त है। तथ्यों से ऐसा सिद्ध है कि यह शर्त भी पूरी हुई है। अतएव लेखा कार्यालय से उक्त बीमा पत्र का भेजा जाना सिद्ध होता है। इसी विन्दु का दूसरा पक्ष जो अपीलार्थी ने उठाया है कि क्या वह बीमा परसौना डाकघर पहुँचा अथवा नहीं इस विषय में बैग के लेबल आदि यदि सुरक्षित होते तभी कुछ कहा जा सकता था किन्तु अपीलार्थी ने स्वयं उन्हें समाप्त कर दिया। अतः बीमा पत्र का पहुँचना भी सिद्ध ही माना जायेगा।

(ग) तीसरे विन्दु पर अंकित त्रुटियों को अपीलार्थी ने महत्वहीन एवं साधारण त्रुटियाँ बताते हुये उनके लिये सेवा से निष्कासन के दण्ड को अनौचित्य पूर्ण बताया है। यहाँ केवल इतना कहना ही पर्याप्त होगा कि उक्त दण्ड केवल इन्ही त्रुटियों के लिये नही वरन् सभी आरोपों की गुरुता को दृष्टि में रख कर दिया गया है जो मेरी दृष्टि में भी उचित है।

उपरोक्त विवेचना के आधार पर मैं प्रदत्त दण्ड में किसी भी हस्तक्षेप का औचित्य नहीं पाता हूँ।

6. अतएव मैं, एतद्द्वारा, अपीलकर्ता की अपील अस्वीकार करता हूँ तथा अधीक्षक डाकघर गोण्डा मण्डल, गोण्डा के उपरोक्त ज्ञापन द्वारा प्रदत्त दण्ड की पुष्टि करता हूँ।

(भानु प्रताप सिंह)
निदेशक डाक सेवायें
लखनऊ क्षेत्र, लखनऊ-226007

प्रतिलिपि:

1. सम्बन्धित कर्मचारी को द्वारा अधीक्षक डाकघर, गोण्डा
2-3. अधीक्षक डाकघर गोण्डा मण्डल गोण्डा।
4-5. क्षेत्रीय कार्यालय की पत्रावली।
6. अतिरिक्त।

TRUE COPY
(R. K. Tewari Advo.
Durga Pd

V.C.Roy
वरिष्ठ अधिवक्ता / नोटरी
आयुक्त
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सेवा में
Annexure A-3
अधीक्षक डाकघर गोण्डा
प्रखण्ड गोण्डा

पत्रांक जांच-दुर्गा प्रसाद/88 गोण्डा दिनांक 6-5-88

विषय:- श्री दुर्गा प्रसाद शाखा डाकपाल परसौना (Put-off duty) के विरुद्ध डा० नि० सेवा एवं आचरण नियमावली के नियम 8 के अन्तर्गत जांच।

सन्दर्भ:- आप का पत्रांक एफ० आर०/10/86-87 दि० 20-1-87

मुझे उक्त ज्ञापन के द्वारा श्री दुर्गा प्रसाद शाखा पोस्टमास्टर परसौना (Put-off duty) के विरुद्ध लगाये गये आरोपों की जांच करने के लिए जांच अधिकारी तथा श्री वी. पी. श्रीवास्तव को प्रस्तोता अधिकारी नियुक्त किया गया था। बाद में श्री डी. एन. तिवारी और फिर श्री एस. एन. त्रिपाठी को प्रस्तोता अधिकारी नियुक्त किया गया। श्री दुर्गा प्रसाद ने अपने बचाव के लिए बचाव सहायक श्री आर. बी. श्रीवास्तव को नियुक्त किया।

मैंने उक्त जांच 6-10, 28-11-87, 1-2-88, 10-2-88, 16-3-88 एवं 31-3-88 को जांच की तारीखें निर्धारित कर के पूरा किया। श्री दुर्गा प्रसाद को दिनांक 31-3-88 को अपना बचाव बयान उपखण्डीय कार्यालय में देना था परन्तु न अपना और न उनके बचाव सहायक उपस्थित नहीं हुए न कोई सूचना ही भेजा। दिनांक 25-3-88 के रजिस्टर्ड पत्र द्वारा उन्हें सूचित किया गया कि दिनांक 30-3-88 तक अपना बचाव बयान पंजीकृत द्वारा उन्हें और प्रस्तोता अधिकारी को भेज दें परन्तु दिनांक 7-4-88 तक उन्होंने कोई ध्यान नहीं दिया अतः प्रस्तोता अधिकारी से (written brief) लिखित संक्षेप प्राप्त कर अवलोकनार्थ भेजा दिया गया तथा श्री दुर्गा प्रसाद को आदेश दिया गया कि दिनांक 10-4-88 को अपना लिखित संक्षेप (written brief) देना सुनिश्चित किया जाय। श्री दुर्गा प्रसाद ने दिनांक 18-4-88 को लिख कर दिया कि चूंकि उनका बचाव बयान नहीं लिया गया है अतः उन्हें कोई लिखित संक्षेप (written brief) नहीं देना है। श्री दुर्गा प्रसाद को अपना बचाव बयान दिनांक 31-3-88 से 7-4-88 तक तथा 7-4-88 से दिनांक 10-4-88 तक का समय दिया गया परन्तु उन्होंने इसमें जांच के प्रति उदासीनता दिखाया। जांच कार्यवाही आगे न बढ़े इस उद्देश्य से जानबूझ कर ऐसा किया गया है अतः जांच रिपोर्ट आदेश कार्यवाही हेतु भेजी जा रही है।

श्री दुर्गा प्रसाद शाखा डाकपाल परसौना के विरुद्ध आरोप लगाए गये हैं:-

1- दिनांक 1-11-86 को [illegible] ने इस भारती बीमा 250/500 रुपये का बीमा भेजा गया परन्तु उन्होंने इस बीमे को प्राप्त होना स्वीकार नहीं किया।

Durga P.

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2- दिनांक 29.9.86 को बीजक संख्या 284/600 अन्य बीजकों सहित प्राप्त स्वीकार नहीं किया।

3- दिनांक 13.11.86 को अपने दैनिक लेखा पर दिनांक 13.11.86 को बीजक संख्या 517 के स्थान पर 345 पर प्राप्त होना दिखाया।

4- दिनांक 10-11-86 को बीजक संख्या 490/500 प्राप्त होना स्वीकार नहीं किया। बल्कि इसकी न प्राप्त होने के सम्बन्ध में दैनिक लेखा पर कोई सूचना नहीं लिखा और न दिनांक 10-11-86 को सम्बन्धित आदि कार्यों को भी सूचित किया

5- दिनांक 10.11.86 के रजिस्टर अनुसार पत्री पर बंद बीजक संख्या 490/500 के इन्द्राज को अपने हाथों से दर्ज किया और इसे प्राप्त होना स्वीकार नहीं किया।

6. दिनांक 11-11-86 का कार्यालय अनुमान प्राप्त को दैनिक लेखा कॉलम 160/ के स्थान पर रु 165 दिखाया एवं 5/- रु. दुर्विनियोग करने का प्रयास किया।

इन आरोपों को प्रमाणित करने हेतु प्रस्तोता अधिकारी ने निम्न अभिलेखों और गवाहों को प्रस्तुत किया :-

अभिलेखों की सूची

प्रदर्श S-1. [illegible] बी. प्राप्ति दिनांक 11-11-86
" 2 बी. ओ. स्लिप दिनांक 10.11.86 (Carbon copy)
" 3 " " " (Pencil copy)
" 4 बयान श्री रतन लाल दिनांक 15.11.86
" 5 " " 16.11.86
" 6 " राम नारायण 15.11.86
" 7 " " 16.11.86
" 8 " दुर्गा प्रसाद 15.11.86
" 9 " " 15.11.86
" 10 " डेली रजिस्टर पृ. 10.11.86
" 11 " 11.11.86
" 12 " 12.11.86
" 13 " 13.11.86
" 14 बी ओ स्लिप 11-11-86 (आदि [illegible]
" 15 " 11.11.86 सूचना [illegible]
" 16 ओ. नं. 13 29-9-86
" 17 " 14 3-11-86
" 18 बयान दुर्गा प्रसाद 14/10/86
" 19 SDI के [illegible] 17.10.86
" 20 दुर्गा प्रसाद का पत्र दिनांक 11-11-86
" 21 बी. [illegible]
" 22 सूची नं. 26 दिनांक 11.11.86
" 23 " " 27 11-11-86
24 " 28 13-11-86

गवाहों की सूची :-

1- श्री रतन लाल प्रसाद बी.ओ. [illegible]
2 " राम नारायण रखवाला
3 " [illegible] अहमद [illegible]
4 " [illegible]
5- श्री [illegible] SDI (Central)

Durga [illegible]

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श्री दुर्गा प्रसाद शाखा डाकपाल के विरुद्ध लगाया गया प्रथम आरोप यह है कि दिनांक 10.11.86 को [illegible] उन्होंने [illegible] भेजा गया [illegible] बीमा नं. 220/500 को बी.ओ. स्लिप पर दर्ज होने के बाद उसको अस्वीकार किया। इस आरोप को प्रमाणित करने के लिए प्रस्तोता अधिकारी ने प्रदर्श पु-1 से प्रदर्श पु-15 तथा प्रदर्श पु-20 से 24 तक के अभिलेख एवं गवाह एवं श्री [illegible] प्रसाद शर्मा [illegible] [illegible] एवं श्री आर.के. तिवारी निरीक्षक डाकघर (म.प्र.) [illegible] को प्रस्तुत किया।

श्री हनुमान प्रसाद बी.ओ. [illegible] [illegible] ने [illegible] बयान दिनांक 15.2.88 में [illegible] बताया कि प्रदर्श पु-2, 3, बी.ओ. स्लिप दिनांक 10.11.86 को [illegible] [illegible] [illegible] [illegible] किया। [illegible] बीमा नं. 220/500 [illegible] [illegible] दर्ज किया। [illegible] [illegible] उसी [illegible] बी.ओ. [illegible] [illegible] [illegible] था। शाखा डाकपाल द्वारा उसी दिन [illegible] [illegible] [illegible] बीमा [illegible] स्वीकार [illegible] [illegible] बी.ओ. स्लिप (office copy) प्रदर्श पु-3 [illegible] प्रदर्श पु-10 [illegible] से ज्ञात हुआ है कि बीमा नं. 220/500 [illegible] दिखाया गया है [illegible] [illegible] [illegible] दिनांक 11.11.86 [illegible] बी.ओ. स्लिप प्रदर्श पु-14, 15 [illegible] शाखा डाकपाल को [illegible] स्वीकार [illegible] [illegible] [illegible] प्रदर्श पु-20 [illegible] [illegible] [illegible] प्रदर्श पु-1 [illegible] [illegible] प्रदर्श पु-22 [illegible] श्री हनुमान प्रसाद [illegible] [illegible] बयान प्रदर्श पु-8 [illegible] [illegible] [illegible]

13.2 प्रदर्श पु-6 [illegible] बी.ओ. स्लिप [illegible] 3 [illegible] बी.ओ. [illegible] प्रदर्श [illegible] '2' [illegible] बताया [illegible] प्रदर्श पु-2 [illegible] बीमा नं. 220/500 [illegible] [illegible] [illegible] [illegible] नहीं मिलता है [illegible] बताया। [illegible] प्रदर्श पु-23 [illegible] [illegible] श्री [illegible] [illegible] [illegible] बयान दिनांक 16.3.88 में बताया है कि प्रदर्श पु-2, 3 दिनांक 10.11.86 बी.ओ. स्लिप [illegible]

Durga [illegible]

जिस पर बीमा की थी ... के सम्बन्ध जांच बाबत
दिनांक 1.11.86 को श्री हनुमान प्रसाद बैकुण्ठा स्टेट बैंक को।
वी.ओ. पालिसि की जांच करते हुए उन्होंने सभी बीमों के सम्बन्ध
स्टाफ हस्ताक्षर ले लिए थे। उनके अनुसार ही वी.ओ.
पालिसि प्रदर्श-2 बीमों ... बैग में डाल दिया
था वी.ओ. [illegible] आदि ने अपने सील से सील कर
... लिफाफे को बैग हस्तान्तरित कर दिया था। शाम
को परसीला की डाक बाबत आदि पर जमा करवाई कि
बीमा रजिस्ट्री नं 74 एम २० ... डाक से जांच अमानत में
रिकार्ड ... है ... बीमा न. ... व ... दिनांक [illegible]
गया ... अमानत में ही दिखाया गया है इसका
... कर दिया गया। इस सम्बन्ध में उसके बयान
प्रदर्श 28 एवं 27 में लिखी बातों को भी उन्होंने
स्वीकार किया। श्री सिंह ने भी उन्होंने बताया कि
प्रदर्श 32 पर टोटल 3 को '2' लिखा गया है।
यह ओवरराइटिंग बीमा के (...) में ... स्पष्ट नहीं
थी। श्री डालचन्द ... प्रधान ... की अधिकथन
दिनांक 16.3.88 से ही ओ.एम. ... लिखित द्वारा भेजी
है उसे भी ... किया।

श्री आर.के. तिवारी ने इस मामले की
जांच स्वयं किया था। उनका बयान दिनांक 18.2.88
को लिया गया। जिसमें उन्होंने बताया कि प्रदर्श 1
80/1650/11.11.86 के आधार पर उक्त बीमा की जांच
आरम्भ की गई। वी.ओ. पालिसि प्रदर्श 2 की
क्रम 2 पर उक्त बीमा अंकित था। जिसे ...
"Not received", ... लिखकर
हस्ताक्षर कर दिया था तथा टोटल 3 को ओवरराइटिंग
करके '2' लिख दिया था। परन्तु शब्दों में
अंकित "Three" को "Two" नहीं किया। ... इस
लिए ... प्रदर्श 3 पर कोई ... का
संशोधन नहीं था। परन्तु ... मास्टर परसीला
को बीमा ... के सम्बन्ध में कोई [illegible] नहीं
... किया। सील, ... लेबिल, बैग आदि भी ...
नहीं किया और दिनांक 1.11.86 के ... प्रदर्श
3-10 के द्वारा भी बीमा के ... सम्बन्ध कोई
... सूचना भेजी। ... आदि
... बयान प्रदर्श 3-8 में स्वीकार किया ...
... में भी इस बीमे की कोई प्राप्ति नहीं की
गई है। उक्त विवरण से स्पष्ट है कि ... अनुसार
... दिनांक 1.11.86 को ...
उसके 200/500 ... Not received ...
... किया। ... बीमा ...

Durga [illegible]

-31- (6)

स्वयं या एजेन्टों के माध्यम से या डी.ओ. डेली एकाउन्ट के माध्यम से भेजना चाहिए था। शाखा डाकपाल द्वारा ऐसा न करना उनकी कार्यवाही को संदेहास्पद बनाता है और यह प्रमाणित करता है कि उक्त बीमा उन्होंने जानबूझ कर गायब किया गया है।

दूसरा आरोप

दिनांक 29.9.06 को बीमा संख्या 264/600 अन्य बीओ से सम्बन्धित बताकर स्वीकार न करना।

इस आरोप को प्रमाणित करने के लिए प्रस्तोता अधिकारी ने डी.बी.-13 दिनांक 29.9.06 प्रदर्श पु-16 प्रदर्श पु-18 शाखा डाकपाल का बयान दिनांक 17.10.06 एवं सेन्ट्रल जेल सीपी का रिपोर्ट तथा प्रदर्श पु-19 डाकनिरीक्षक द्वारा शाखा डाकपाल को दी गई चेतावनी को स्वतः अभिलेख के रूप में प्रस्तुत किया है। तथा [illegible] जगदीश चन्द्र सेन्ट्रल जेल सीपी अभियोजन को गवाह के रूप में प्रस्तुत किया है।

डी.बी. क्र. 13 दिनांक 29.9.06 के द्वारा शा. डाकपाल पचोला एस.ओ. तथा डा.नि. को उपरोक्त आहरण [illegible] ने सूचित किया कि अहमदाबाद बीमा क्र. 264/600 दिनांक 29.9.06 को शाखा डाकपाल को भेजा गया परन्तु शाखा डाकपाल ने इसे प्राप्त करके स्वीकार नहीं किया है। शाखा डाकपाल का बयान प्रदर्श पु 18 दिनांक 14.10.06 को सेन्ट्रल जेल सीपी ने लिया जिसमें शा. डा. ने स्वीकार किया कि बीमा क्र. 264/600 बी.ओ. जर्नल में दर्ज किया परन्तु उस दिन के डेली एकाउन्ट में संलग्न करना भूल गया। इस पर शाखा डाकपाल को डा.नि. के आदेश पत्र संख्या [illegible] दिनांक 17.10.06 द्वारा कड़ी चेतावनी दिया। इससे स्पष्ट है कि शाखा डाकपाल के विरुद्ध लगाया गया यह आरोप पूर्णतया प्रमाणित है।

आरोप न. 3

तीसरा आरोप यह है कि श्री [illegible] शाखा डाकपाल [illegible] ने दिनांक 13.11.06 को बीमा क्र. 517/1100 के स्थान पर बीमा क्र. 345/1100 प्राप्त करना दिखाया।

शाखा डाकपाल ने डेली एकाउन्ट दिनांक 13.11.06 प्रदर्श पु. 13 पर बीमा क्र. 517/1100 के स्थान पर 345/1100 अंकित किया है। इस बात को [illegible] आरोपी ने दिनांक 13.11.06 को प्रदर्श 20 दिनांक 13.11.06 को [illegible] दिया तथा [illegible] सभी [illegible] को [illegible] दिया। [illegible] शाखा डाकपाल [illegible]
दुर्गा प्रसाद ने अपने बयान दिनांक [illegible]

[illegible]

Durga [illegible]

22 (8)

[illegible] व शाखा डाकपाल ने [illegible] बी.ओ. डेली एकाउन्ट के आवश्यक [illegible] [illegible] था। शाखा डाकपाल द्वारा [illegible] न करना उनकी लापरवाही को साबित करता है और यह प्रमाणित करता है कि उक्त बीमा उन्हीं के द्वारा [illegible] 275 में गायब किया गया है।

द्वितीय आरोप

दिनांक 29 7 06 को बीमा संख्या 264/600 उक्त बीमा के प्राप्तकर्ता को वितरित न करना।

इस आरोप को प्रमाणित करने के लिये प्रस्तुतकर्ता अधिकारी ने एस.डी.-13 दिनांक 29.7.06 प्रदर्श एस-16 प्रदर्श एस-18 शाखा डाकपाल का बयान दिनांक 17.10.06 [illegible] [illegible] का [illegible] तथा प्रदर्श एस-19 [illegible] द्वारा शाखा डाकपाल के [illegible] की [illegible] आरोपित [illegible] को प्रस्तुत किया है तथा [illegible] [illegible] [illegible] [illegible] [illegible] आरोप को साबित [illegible] प्रयास किया है।

एस.डी. 13 दिनांक 29.7.06 के द्वारा शाखा डाकपाल [illegible] एस.डी.आई. तथा [illegible] के [illegible] [illegible] उतारा न दर्शित किया कि [illegible] बीमा सं. 264/600 दिनांक 29.7.06 को शाखा डाकपाल को [illegible] [illegible] शाखा डाकपाल ने [illegible] (वितरण नहीं किया है) शाखा डाकपाल का बयान प्रदर्श एस 18 दिनांक 14.10.06 को [illegible] [illegible] [illegible] स्वीकार किया कि बीमा सं 264/600 को [illegible] [illegible] उस दिन के डेली एकाउन्ट में [illegible] करना [illegible] गया। [illegible] शाखा डाकपाल को [illegible] प्रदर्श संख्या [illegible] दिनांक 19 [illegible] [illegible] [illegible] किया। इससे स्पष्ट है कि शाखा डाकपाल के विरुद्ध [illegible] यह आरोप पूर्णतया प्रमाणित है।

आरोप न 3

तीसरा आरोप यह है कि श्री [illegible] ने दिनांक 13.11.06 को बीमा सं. 517/1100 के स्थान पर बीमा सं. 345/1100 प्राप्त करना दिखाया।

शाखा डाकपाल के डेली एकाउन्ट दिनांक 13.11.06 प्रदर्श एस 13 में बीमा सं. 517/1100 के स्थान पर 345/1100 [illegible] दिखाया है। [illegible] [illegible] [illegible] अधीक्षक के दिनांक 13.11.06 को [illegible] एस 20 दिनांक 13.11.06 [illegible] किया तथा शाखा डाकपाल [illegible] [illegible] [illegible] को [illegible] दिया। [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

क्र. 9 द्वारा अपनी गलती को स्वीकार किया है तथा भविष्य में ऐसी गलती न करने का आश्वासन दिया। यह आरोप अभिलेखों द्वारा ही प्रमाणित हो जाता है

आरोपण - 4

चौथा आरोप यह है कि शाखा डाकपाल ने बीमा सं. 240/500 को प्राप्त होकर स्वीकार नहीं किया तथा डेली एकाउन्ट दिनांक 10-11-86 के द्वारा कोई सूचना ही दिया कि बीमा न. 240/500 नहीं प्राप्त हुआ है।

प्रदर्श क्र. 2, 3 पर उक्त बीमा प्राप्त दर्ज है। परन्तु शाखा डाकपाल के दिनांक 10-11-86 के डेली एकाउन्ट प्रदर्श क्र.-10 पर प्राप्ति भी अमानत में नहीं दिखाया तथा इसके न प्राप्त होने सम्बन्धी कोई सूचना ही दिया। की और [illegible] आदि सुरक्षित भी नहीं रखा। अपने बयान दिनांक 15-11-86 प्रदर्श क्र. 8 द्वारा बताया कि बीमों के प्राप्त होने सम्बन्धी सूचना दिनांक 11-11-86 को रजिस्टर्ड पत्र द्वारा दिया उन्हें [illegible] पर इस मोहर लगने की जानकारी नहीं थी। अतः शाखा डाकपाल को उक्त स्थान पर बीमा नहीं मिला [illegible] स्वयं या अपने हरकारे द्वारा अथवा डेली एकाउन्ट दिनांक 10-11-86 द्वारा उपडाकपाल को सूचित कर सकते थे क्योंकि उस दिन शाखा डाकपाल के यहाँ डाक 13.30 बजे प्राप्त हो गई थी। उपपोस्टमास्टर, अकोला द्वारा भेजे गये पत्र, तो और [illegible] दिनांक 11-11-86 द्वारा भेजी सूचना आदि पर [illegible] रजिस्ट्री भेजना यह दिखाने का प्रयास किया था कि बीमा नहीं मिला [illegible] शाखा डाकपाल द्वारा की गई कार्यवाही उनके बयान एवं डेली एकाउन्ट्स से स्पष्ट है, पाँच सौ रुपये का बीमा न मिलना और तत्काल कोई सूचना नहीं देना शाखा डाकपाल के प्रति [illegible] को संदेहास्पद बनाता है। की और एस एकाउन्ट [illegible], साक्षी आदि के बयानों तथा उक्त विवरण द्वारा किये गये जांच से यह स्पष्ट है कि उक्त बीमा शाखा डाकघर को भेजा गया था और शाखा डाकपाल ने जान बूझकर गायब कर दिया तथा [illegible] किसी अधिकारी को बीमा न मिलने सम्बन्धी कोई सूचना नहीं भेजा। शाखा डाकपाल के विरुद्ध लगाया गया यह आरोप भी पूर्णतया प्रमाणित हो जाता है।

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पांचवा आरोप

पांचवा आरोप यह है कि दिनांक 10-11-86 को जो बी.ओ. स्लिप शाखा डाकपाल पटरौना को भेजी गई उस पर बीमा संख्या 280/500 सहित तीन बीमा पत्रों के लाने उतारा गया, कोई चार्ज नहीं था। [illegible]

प्रदर्श पी 3 व बी.ओ. स्लिप, प्रदर्श पी 3 की जो स्लिप आदि इत्यादि पर [illegible] (बचाव साक्षी [illegible]) लाल (स्याही) का प्रयोग किया है तथा आपत्ति (हस्ताक्षर) बताया है। प्रदर्श पी 2 बी.ओ. स्लिप पर बीमा सं 280/500 के इन्द्राज को काटकर [illegible] लाल स्याही [illegible] का प्रयोग किया गया है वह शाखा डाकपाल द्वारा [illegible] कि [illegible] शाखा डाकपाल के [illegible] को काटकर और उसे "Not Received" लिख दिया गया है। [illegible] '2' [illegible] शाखा डाकपाल को प्राप्त बी.ओ. स्लिप पर उक्त बीमा नहीं मिला था तो प्रविष्टि कहीं नहीं करना चाहिए था बल्कि उन्हें नियमानुसार तुरन्त [illegible] से उपडाकपाल अधीक्षक एवं अन्य अधिकारियों को सूचित करना चाहिए था। इसके विपरीत शाखा डाकपाल ने दिनांक 10.11.86 को [illegible] प्रदर्श पी 10 पर [illegible] बीमा के प्राप्त होने [illegible] प्राप्त होने, न प्राप्त होने [illegible] विभागीय नियमानुसार [illegible] नियमानुकूल [illegible] शाखा डाकपाल ने [illegible] बी.ओ. स्लिप पर [illegible] बीमा "Not received" लिखकर अपनी जिम्मेदारी [illegible] तथा [illegible] कार्यालय [illegible] दिनांक 11.11.86 को पंजीकृत पत्र द्वारा सूचना देना बताया। शाखा डाकपाल द्वारा [illegible] के आरोप बीमा 280/500 [illegible] की [illegible] हुई। प्र. 10 द्वारा की गई प्रारंभिक जांच एवं [illegible] यह प्रमाणित है कि शाखा डाकपाल [illegible] बीमा गायब कर दिया है। शाखा डाकपाल के विरुद्ध लगाया गया यह भी आरोप पूर्णतया प्रमाणित है।

Durga [illegible]

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छठा आरोप

शाखा डाकपाल कन्नौज के विरुद्ध छठा आरोप यह है कि उन्होंने दिनांक 11-11-86 को सिर्फ 160/ के रजिस्ट्री का हिसाब दिखा जबकि डेली रजिस्टर में उन्होंने 165/ दिखाया। 5/ का दुर्विनियोग माना जाता।

शाखा डाकपाल के विरुद्ध लगाया गया यह आरोप प्रदर्श कु-11 डेली रजिस्टर दिनांक 11-11-86 पर आधारित है। शाखा डाकपाल ने रजिस्ट्री पावती सं० 4543/150/ एवं 464/10 कुल रु 160 का हिसाब दिखाया है। जबकि इसके विपरीत उन्होंने रुपया 165/ दिखाया जब कि उन्होंने अपना यह अवशेष कम लिखा और उसी के आधार Detail of Balance भी दिखाया। शाखा डाकपाल के इस गलती करने से [illegible] आपने [illegible] [illegible]। इस तरह शाखा डाकपाल के विरुद्ध लगाया गया यह आरोप भी प्रमाणित है।

निष्कर्ष

उपरोक्त निष्कर्षों से यह सिद्ध होता है कि श्री दुर्गा प्रसाद शाखा डाकपाल कन्नौज के विरुद्ध लगाए गए सभी आरोप प्रमाणित हैं तथा श्री दुर्गा प्रसाद ने शाखा डाकघर नियमावली के नियम 32, 54, 174, 175 तथा 169 का उल्लंघन करके सत्यनिष्ठा एवं कर्तव्यनिष्ठा न बनाए रखकर [illegible] (सेवा एवं आचरण) नियमावली [illegible] नियम 17 का उल्लंघन किया।

सभी आरोप [illegible] आदेश कार्यवाही हेतु प्रस्तुत किए जाते हैं

TRUE COPY
(R. K. Tewari Advo.)

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Before The Central Administrative Tribunal, Allahabad-1

O.A. Regn. No. Of 1989

Durga Prasad versus Union Of India & Others

Annexure A-4

Extract Rule 169 from Branch Office Rules

169. Entries To Be Made On The Receipt Side Of The Journal.- The Nos. and other Particulars of all the V.P. & Insured Articles of the letter & parcel mailsreceived for Delivery, Money Orders or TMO Receipts and S.B. warrants (S.B.7) received for payment and IndianPostal Orders received for saleentered in the B.O. Slip (P.A.-4) from the A/C office, should be copied on the receipt side of the Journal (P.A.-5). A lump entry should also be made on the receipt side of the Journal showingthe total No. of unregistered Parcels received for delivery. If redirection fee is due on any such parcel, the particulars of the Parcel together with the amount of the redirection fee should also be entered on the receipt side. The particulars of all unclassified receipts should also be enteredon the receipt side of the journal.

Extract Rule 17 of EDA(C&S) Rules 1964.

17. General :

Every employee shall at all times maintain absolute integrity and devotion to duty.

TRUE COPY Extract

R. Tewari

(R. N. Tewari Advo.)

Durga Pd.

Annexure A-5

To,

The Director Postal Services,
Lucknow Region,
LUCKNOW

Sub: Appeal against the order of the Supdt.Post Offices Gonda imposing the penalty of removal from service vide Memo.LR-10/86-87 dated 16.5.88 on Durga Prasad B.P.M.Parsauna Distt.Gonda (copy enclosed as annexure (A).

Sir,

The above named appellant Durga Prasad Ex. B.P.M. Parsauna Gonda begs to submit as under;-

1. Facts of the case in brief are that the appellant was appointed as Branch Postmaster Parsauna in October 1985 Shri R.K.Tewari now office supervisor S.S.Post Faizabad was then Sub Divisional Inspector Post Offices Gonda(Central) . He was biased and prejudiced for the reasons that appellant could not yield to his illegal demands.

2. That on 10.11.86 when the B.O bag was opened the entry of insured letter no.290 for Rs.500/- was found scored out with red ink. Two other insured letters entered were received. The appellant was a new man . He did not preserve the bag , cord and seal for the reasons that entry was scored out.

3. That the appellant made entries of the other two insured letters in B.O Journal and showed it in deposit in B.O.journal and B.O.daily A/C.It be submitted that the mails were received at 3.30 hours and despatched after 1/2 hours.

4. That the appellant being new did not make entry of non receipt of insured letter though entry was scored-ed out. The appellant did not know that even in those

Durga Prasad

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when there is correction or scoring out entry the irregularity is to be noted in error book .

5. That the appellant after dispatching the mails and giving delivery to EDDA and closing the account went to Utraula Post Office and enquired about the scoring out of entry on 10.11.86. The appellant was told that in the original B.O. slip the entry was not scored out. The appellant was not afforded opportunity to produce evidence to prove above fact.

6. That the appellant thereafter came to Post Office Parsauna and noted the fact of non receipt of insured letter [illegible] relevant [illegible] submitted report to higher authorities viz. S.D.I. and S.Post Gonda and S.P.M. Utraula Bazar.

7. That though the receipt of said report is admitted but the same has not been produced before enquiry officer.

8. That the appellant came to know thereafter that conspiracy was hatched by S/S R.K.Tewari S.D.I. and his favourites S/S Hanuman Pd.Sub A/C Clerk and Ram Naresh Dube to make out case to get the appellant put off duty and thereafter removed to make room for new appointment of B.P.M. for self gain .

9. That the enquiries were made by Shri R.K.Tewari the then S.D.I.and the appellant was put off duty vide memo.dated 19.11.86 (copy enclosed as annexure (8).

10. That thereafter chargesheet was issued under rule 8 of EDA Conduct Rules 1964 vide [illegible] no.27.3.87 after more than 4months in utter disregard of D.G's order No.13 below rule 9 of ED Conductrules

Durga Pd

(copy enclosed as annexure (C).

11.. That the appellant had submitted an application to D.P.S.Lucknow regarding fabrication of cases by the S.D.I.Gonda (Central) Shri R.K.Tewari (copy attached as annexure (D).

12. That Shri V.C.Raj A.S.P.(H.Q.) Gonda was appointed as enquiry officer.

13. That during cross examination Shri Hanuman Prasad admitted fact that Treasurer used to write the number of insured letters on B.O.slip dated 10.11.86 sent to Parasuna the number of insured letter was not written Hanuman Bosap written. This omission was not without motive. The motive was that the appellant would not challenge the non receipt of insured letter immediately as entry was scored out and treasurer had not written the number of insured letter sent. This proves the conspiracy (copy attached as annexure E).

14.. That Shri Ram Naresh Dube the then treasurer has stated that on the carbon copy the total of insured letter sent has not been written but on pencil copy the total no. of insured has been written. It be noted that SBO A/C Clerk has deposed that even on original (Mool) the treasurer had not written the total no. of insured letter sent while the treasurer says that he had ~~not~~ written. This veracity proves the conspiracy (copy of statement is attached as annexure F).

15. That the statement of Shri R.K Tewari before the E.O. willfully show that he did not make entry with intent and purpose to find out truth but with a view to find out ways and means to implicate the appellant (copy attached as annexure (G).

16. That on the close of case of prosecution the date

contd.on page 4......

Durga Pd

for submission of defence was fixed for 21.3.88. The defence counsel sent intimation to E.O. that due to sudden death of his wife's brother in law at Lucknow the date be postponed (copy enclosed as annexure I)

17.. That thereafter no date of submission of defence was fixed. The enquiry officer intimated that defence statement be sent by [illegible] upto 30.3.88 vide letter dated 25.3.88 (copy attached as annexure J)

18.. That though this letter was written on 25.3.88 it was actually despatched on 29.3.88 as will be seen from the remarks written by defence Asstt. on letter (annexure (J). This letter was despatched to appellant on 29.3.88 and delivered on 2/4/88.

19.. That according to ~~rule 14 of~~ sub rule 16 of rule 14 of the C.C.S.(C.C.A) rules 14 the date was to be fixed when the defence statement was to be submitted with assistance of defence Asstt. but no such date was fixed. The enquiry officer violated this provision in sub rule 16 of rule 14 C.C.S.(C.C.A) rules 1965.

20.. That without waiting for defence statement the enquiry officer closed the case of defence without affording opportunity for defence or examination of defence witnesses.

21.. That on 7.4.88 the enquiry officer wrote to appellant to submit brief. The brief of Presenting Officer was sent. No intimation was given to defence Asstt. nor any particular date was fixed. Thus opportunity of submission of brief with the assistance of defence asstt. was also denied in above manner (copy enclosed as annexure K).

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22. That after making enquiry in above manner the enquiry officer submitted report. The disciplinary authority did not apply his mind that enquiry held was not in conformity with rule 14 of C.C.S. (C.C.A.) Rule and imposed the penalty of removal on appellant. The appellant submits appeal on the following grounds;

Grounds of appeal

1. Because the inquiry proceedings has been held in utter disregard of rules of natural justice and rule 14 of the C.C.S.(C.C.A) rules 1965.

The submission of the appellant is that depart-mental enquiry held against Govt. Servant is not empty formality. It is serious proceeding intended to give opportunity to Govt. servant to defend him-self. This assumption finds support from the law laid down by their lordships of Supreme Court in case reported in A.I.R. 1961 S.C. 1070 and reprodu-ced as case law No. 2 below rule 14 of C.C.S.(C.C.A) rules 1965. In the case of State of Panjab Vs. Kaman Chand reported in A.I.R. 1959 Punjab at page 402 reproduced as case law No. 3 in appendix III (Constitution of India and article 311) their lordships of Punjab High Court has held that require-ment of reasonable opportunity is fulfilled when the charged official is [illegible] opportunity after all the evidence is produced and known to him to produce evidence and witnesses to refute it. In the present case the date for submission of defence statement was fixed for 21.3.88

The defence counsel sought adjournment due to death of his near relative (see annexure [illegible]) The enquiry officer thereafter did not fix date for submission of defence but intimated to appellant vide letter

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dated 25.3.88 (see annexure J) that defence statement be submitted by 30.3.88. This letter was despatched to appellant on 28.3.88 and was delivered on 2.4.88 It was despatched to defence Astt. on 28.3.88 and delivered on 29.3.88 . In fact the date should have been fixed for submission of defence with assistance of defence Asstt. This was not done . The enquiry officer is despatching intimation for submission of defence statement on 28.3.88 by regd.post . How could the defence statement submitted by 30.3.88 when intimation was delivered . The enquiry officer should have ascertained the date of delivery of letter dated 25.3.88 before closing the case of defence and asking the Presenting Officer to submit brief. Thus the valuable right of defence and examination of defence has been denied. The enquiry held is thus in violation of sub-rule 16(17) of rule 14 of C.C.S.(C.C.A) rules. The enquiry report is thus illegal rendering the punishment order as nullity.

2. Because the finding of enquiry officer and disciplinary authority is perverse and no reasonable person will arrive at such finding.

The submission of the appellant is that number of charges has been levelled and in fact these charges have been levelled as will be seen from article of charge. The question for determination is whether the insured letter no.290 for Rs.500/- was was received at Parsauna B.O. on 10.11.86 or not and whether it was despatched by account officer at all.

contd. on page 7........

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Whether the entry of insured letter on carbon copy was scored out by account office or by appellant. In this connection prosecution examined S/S Hanuman Singh Sub A/C Clerk and Ram Naresh Dube treasurer. Both these witnesses have deposed that except on this B.O. slip (Ex.KA-2) containing entry of insured letter no. 290 Rs.500/- and thereafter scored on carbon copy the treasurer used to write number of insured letter sent in his own handwriting. The question arises why such entry was not made on B.O.slip dated 10.11.86 alone. This itself proves that entry was scored to misguide the appellant. This aspect has been overlooked by enquiry officer and disciplinary authority. The enquiry officer has based his finding on omission of the appellant to make entry of this event viz. non receipt of insured letter in error book and intimating it to higher authority on 10.11.86 itself. It is admitted that report was sent on 11.11.86. It is also said that no remark of non receipt was made on B.O.daily A/C sent on 10.11.86 Bag Card, label seal had not been presented. It is also said in finding that that ink used by treasurer on B.O.slip and scoring of entry does not resemble. On the above evidence it was held by enquiry officer that entry on carbon copy was scored out by appellant with intention to misappropriate the amount of insured letter. The submission of appellant is that when entry was scored the appellant was not certain that this insured letter was at all despatched by Account office. As such the appellant went to account office Utraula to find out why entry was scored. The appellant was denied opportunity to lead evidence in support of above fact viz. going to Utraula. When the appellant was told that entry in original (Pencil copy) was not [illegible]

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appellant doubted that conspiracy was hotched up against him and he made entry in relevant record for non-receipt of insured letter and submitted report to higher authority. On these facts no reasonable person will say that there was any element of dishonesty or any ulterior motive to misappropriate the value of the insured letter. It is also not the case that insured letter contained more amount than for what was insured. Thus the finding of the enquiry officer and disciplinary authority that appellant did not maintain absolute integrity and devotion to duty is perverse and is based on misappreciation of evidence and facts.

The finding in regard to charge No. 4 is based on alleged omission of the appellant in not sending the report of non-receipt of insured letter through E.L.R. not noting the non receipt in error book, not sending report to higher authorities on 10.11.86. The enquiry officer failed to consider that how can S.P.M.Utraula send telegram on 11.11.86 regarding nonreceipt of insured letter just on next day in morning if appellant had not informed him about the non receipt of insured letter. The appellant has mentioned above that he had gone to Utraula on 10.11.86 after close of the office to ascertain why entry of aforesaid insured letter was scored out and then he came to know that ~~on original~~ copy (pencil) it is not scored. The enquiry officer has failed to consider that when always the treasurer used to write the number of insured letter despatched but on this slip the number of insured letter was not written. The treasurer had given explanation that he had written the number of insured letter was noted by him on pencil copy but due to removal of carbon the impression it not come on carbon copy send to S.O.

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The Sub A/C Clerk Hanuman Pd. says that word three was written by him and Treasurer did not note the number of insured letter sent through always and on said date on other BO slip the treasurer had noted it. All these facts have been not considered and on alleged omission which was due to reasons that appellant was not certain whether the insured letter was sent because entry was scored out and at Utraula it came to light and thereafter appellant took action . The omissions will not prove that entry was scored out. Thus the finding of the enquiry officer and S.Post Gonda on Charge No.I,4 and 5 which relate to insured letter no.290 for Rs.500/- is perverse based on misappreciation of evidence and fact and ignoring the omission of treasurer in not noting the number of insured letter deliberately.

The charge No.2 is that the insured letter no.264 for Rs.600/- was sent on 29.9.86 was not acknowledged by showing it in deposit in daily a/c when other 3 insured letter were shown in deposit . The appellant had submitted that mails were received at 13.30 and despatched immediately. In rush of work the appellant failed to show it in deposit in daily A/C . It may be submitted that insured letter was entered in B.O.journal and was delivered to addressee and there is no complaint about. Will this omission amount to dishonesty impeaching the integrity of appellant. No reasonable person will say so. It is merely a clerical error. and will not amount to misconduct dishonesty and nondevotion to duty. The finding of E.O.and S.Post Gonda that appellant violated rule 17 of E.D.A. Conduct rules is thus perverse.

contd. on page 10................

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The Charge No.3 is that on 13.11.86 the appellant showed wrong number of insured letter No.517 as 345 in deposit in L/A . The insured letter was delivered to the addressee intact and there is no complaint about it from any side. It was promptly delivered . In fact on this cover the number were noted and the appellant wrote said number. Anyway even if it be taken that wrong number was written it will not amount to any act of dishonesty or unfaithful discharge of duty and finding that the appellant did not maintain ~~devotion~~ absolute integrity and devotion to duty thereby violated rule 17 of E.D.Conduct rule is perverse even on admitted fact and no reasonable person will arrive at such finding.

The charge 6 is that on 11.11.86 the appellant sent paid voucher of two money orders for Rs.160/- but in account Rs.165/- was shown as paid and that appellant tried to make wrong use (mis-appropriation) of Rs.5/- . The submission of appellant is that the cash and stamp balances on counting tallied and the appellant was confident that this account was correct. In case of difference the vouchers would have been examined and mistake rectified. Can it be imagined that appellant charged Rs.165/- in m.o.payment when vouchers were for Rs.160/- with motive to misappropriate the amount of Rs.5/- No reasonable person will say so. Such mistake ... also done by sub offices also and the same is detected by the H.O. and rectified. The function of account office is same . How could it be alleged that appellant tried to misappropriate Rs.5/- when it is known that such mistake would be detected in account office . The appellant did not ...

in voucher or accounts . Thus the finding that appellant tried to misappropriate the amount of Rs.5/- and that the appellant did ~~notx~~ an act of dishonesty and non-devotion to duty is perverse and no reasonable person will say so.

The Supdt.Post Offices Gonda has mentioned in his finding that the official who after receipt of insured letter submits wrong report about non receipt and score out entries in B.O.slip is not worth to be retained in the department.The Supdt.Post Offices Gonda has arrived at this finding viz. scoring out entries of insured letter on carbon copy of B.O. slip Ex.Ka 2 on the ground that the red ink which was used in scoring entry was same which was used by appellant . Where appellant has used and who compared it and examined it to be same has not been mentioned by the disciplinary authority. Thus this finding is based on conjectures and surmises. The S.Post Gonda says ~~xxxxx~~ at para 5 that entries on Ex.KA 2 and KA 5 are same. KA 2 is B.O.slip (Pencil copy) and Ex Ka 5 is statement of Hanuman Prasad dated 16.11.84. How can the entries be same . It is said that on both exhibits the red ink is same. It appears that Ex.KA 5 is wrongly typed and it should be Ex.KA 3 i.e. pencil copy of the B.O.Slip. The red ink used by treasurer and not by Sub A/C clerk . The Sub A/C Clerk may score out entries with his own pen containing different ink and this can not be ground ~~s~~ to hold that entries were not scored out by account office. The disciplinary authority has failed to realise that the treasurer did not write number of insured letters sent on B.O slip of Parasuna alone when on other B.O.slip it was noted why this omission which was deliberately was not considered by the S.Post Gonda

contd. on page 12..........

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Had the treasurer noted the number of insured letter enclosed and put up by him in [illegible] viz. who had scored out entries would have [illegible]. The [illegible] did not mention any evidence to prove that insured letter was received but appellant made out false case of non receipt. Had it been so the appellant would have completed all formalities and also obtain local witnesses proving its non receipt but no such action was taken. Even no entry of its non receipt was made on B.O. A/C Had appellant any dishonest motive he would have taken all the above action but he did not do so because the entry was scored and appellant went to account office to ascertain why entry was scored out and then he came to know that mischief was comitted to entangle the appellant and he therefore reported the matter to higher authorities. No reasonable person wwill arrive at such finding as has been mentioned by the S.Post Ponda. Thus the finding is perverse based on conjectures and surmises and both the disciplinery authority and inquiry officer have grossly misappreciated the evidence and facts and circumstance of the case.

5. Because the punishment imposed is not commensure to to the gravity of alleged offences.

The submission of the appellant is that the charge 2,3 and 6 are merely omission amounting to clerical error and punishment of removal is not at all justified. As regards charge No.1, 4 and 5 it relates to insured letter no.290 for Rs.500/- . The case of prosecution is that insured letter was [illegible] sent but not acknowledged by appellant. The case of defence (appellant) is that that the insured latter was not received and entry was scord On said date insured letter No.8 74 for Rs.2000/- was also entered and appellant acknowledged it and showed it in deposit in B.O. daily A/C . The finding of S.Post Ponda and enquiry officer is based merely on suspicion and conjecture on the basis of alleged omission of appellant in not taking immediate action according to rule

Durga Pa.

when insured letter was not received. They have ignored fact that at the time of opening of B.O. bag it was not certain that insured letter was actually despatched because entry was scored. They have also ignored the fact that had appellant any dishonesty motive he would taken immediate action. All these facts have not been examined. On such disputed question of fact the orders of removal is not sustainable. For omission punishment or recovery could be only imposed but neither it could be assumed that appellant made false report nor after receipt denied its receipt. Thus punishment of removal is not justified and is liable to be quashed.

Prayer

The appellant, therefore, prays that impugned order of the S.Post Gonda imposing the penalty of removal vide order dated 16.5.88 (Annexure A) be kindly set aside and the appellant be put back to duty with all service benefits.

dated 9-7-88

Yours faithfully,

Copy to S.Post Gonda with the request that appeal be sent to D.P.S Lucknow along with relevant records for decision of appeal.

Photo
TRUE COPY
R. L. Tewari
(R. L. Tewari Advo.)

Durga Prd.
Durga Prd

-10-

Annexure A-6(5)

Statement of Shri Ram Naresh Dubey the then Treasurer Utraula at Present PA Balrampur H.O.

मैं उतरौला डाकघर में दिनांक 13.6.86 से 30.9.87 तक खजांची के पद पर कार्य किया है। दिनांक 10.11.86 को भी इसी पद पर कार्यरत था। श्री हनुमान प्रसाद वी.आर. एस.ओ. इन्सपेक्टर [illegible] को पसौला डाकघर की बी.ओ. स्लिप तथा [illegible] जिसमें तीन बीमे ग्राम के बहादुर [illegible] रामदुलारे [illegible] 32 [illegible] बी.ओ. स्लिप की आर्टिकल [illegible] और कार्बन कापी [illegible]। बी.ओ. स्लिप [illegible] तीनों बीमों का [illegible] किया तथा उसके [illegible] हस्ताक्षर करके [illegible] किया तत्पश्चात तीनों बीमों को [illegible] इन्सपेक्टर [illegible] बी.ओ. स्लिप [illegible] तथा [illegible] बी.ओ. [illegible] इन्सपेक्टर [illegible] दिया तथा [illegible] को हस्तान्तरित कर दिया। [illegible] यह पाया गया कि बी.ओ. [illegible] दिनांक 10.11.86 [illegible] तीनों बीमों के [illegible] बीमे 874 एवं 261 अमानत [illegible] गये हैं [illegible] बीमा नं. 290 [illegible] दिखाया गया [illegible] अमानत [illegible] दिखाया गया [illegible]। [illegible] बी.ओ. [illegible] 22 [illegible] को भेजा गया। [illegible] डाकघर [illegible] जांच किया। इस जांच के [illegible] 6, [illegible] 7 [illegible]। [illegible] इस बयान पर मेरे हस्ताक्षर हैं।

Cross Examination by Defence Counsel

मैंने 10.11.86 के बी.ओ. स्लिप के आर्टिकल कापी पर तीन बीमा [illegible] लिखा है [illegible] कार्बन कापी पर यह छूट गया है। इस का कारण यह था कि [illegible] देना था। [illegible] कार्बन कापी [illegible] तीन बीमा [illegible] गया। मैं कार्बन कापी [illegible] आर्टिकल [illegible] बीमों [illegible] लिखा था। 10.11.86 से पहले [illegible] भी लिखा था। [illegible] बी.ओ. स्लिप के कार्बन कापी पर [illegible] जाता था [illegible] नहीं [illegible] जाता था। [illegible] बीमे [illegible] 3 के अंक का [illegible] (2) [illegible]

16-3-2001

रामनरेश दुबे

16/3

16/3

Durgatd

(F)

है। यह मेरे जानकारी में नहीं है। बी० आई० लेबर अंजन समय यह आवश्यकताएं नहीं थी। आर्डर कापी पृष्ठ सं० 3 पर मैंने ही "Once endorsed" लिखा है) ——— ...... ———

R.P. Tandon
16/3

Durgapd
16/3/88

16.3.88

रामनरेश 16-3-88

Thots

TRUE COPY
R. Tewari
(R... Tewari Advo.)

Durga Pd.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL [illegible].

CIVIL MISC. APPLICATION No. [illegible] OF 198[illegible]/

(602)

On behalf of the respondents.

.....

IN

REGISTRATION [illegible] No. [illegible] OF 198[illegible]/

S.O.(J)
Keep on file
put up on date fixed
6.12.8[illegible]
Regr

Filed today
(20)
[illegible]
5/12/8[illegible]

Sri A.K. Mishra
to file - receive
[illegible]

Durga Prasad .... Petitioner.

Versus

Union of India & Others .... Respondents.

Received
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[illegible]

To

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

The humble application on behalf of the respondents most respectfully showeth as under:-

[illegible]

1. That the full facts and circumstances have been set out in the accompanying counter-affidavit.

2. That for the reasons disclosed in the accompanying counter-affidavit, it is expedient in the interest of justice that this Hon'ble Tribunal may be pleased to dismiss the petition with costs.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to admit the accompanying counter-affidavit and dismiss the petition with costs.

([illegible])
ADDL. STANDING COUNSEL
[illegible]
COUNSEL FOR THE RESPONDENTS.

Dt/ 5/12/86 /

198[illegible]
AFFIDAVIT
83
HIGH COURT
ALLAHABAD

I[illegible] D.

[illegible]

On behalf of the Respondents.

.....

[illegible]

[illegible]

Durga Prasad ..... Petitioner

Versus

Union of India & others.... Respondents.

Affidavit of R C Singh
aged about 46 years son of
Sri Ray Br Singh posted
as Supdt Pos Govt

(Deponent)

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

1. That the deponent is posted as S[illegible]

R S Singh

Report of Petitioner [illegible] is fully [illegible] with the [illegible] of the case deposed to below.

2. That before [illegible] a parawise reply, the following facts are [illegible] in order to facilitate this [illegible] Tribunal [illegible] administering justice.

3. That the [illegible] was appointed as [illegible] Branch Post Master (In short [illegible]) [illegible] office [illegible] District, [illegible] and [illegible] over the charge of [illegible] office on [illegible].

4. That while working as [illegible], several [illegible] were committed with fraudulent intentions [illegible], a charge sheet under rule [illegible] of the [illegible] (Conduct & Service) Rules, 1964 was issued on [illegible].

5. That in reply of the said charge sheet

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[illegible]

the petitioner has denied the charges which have been levelled against him and as such, enquiry was conducted according to the rules in which, the petitioner participated actively. The principle of natural justice was also followed, during the course of enquiry by the Enquiry Officer and after completion of the said enquiry, the Enquiry Officer submitted the report through which, the charges which have been levelled against the petitioner have been proved and the punishing authority has passed the order dated 13.5.88 through which the petitioner was removed from services. The petitioner thereafter, filed an appeal against the aforesaid order of removal dated 13.5.88 which was also rejected by the appellate authority.

6. That the contents of para-1,2 and 3 of the petition need no comments, being the matters of record.

7. That the contents of para-4(i)&(ii) of the petition are the matters of record, hence need no comments.

8. That the contents of para-4(iii) of the petition are not correct ...

R S Gupta

-4-

denied. It is [illegible] submitted that in fact, the insured [illegible] which information was correctly [illegible] in Transit to Branch Office [illegible] petitioner did not acknowledge the [illegible] his intention to mis-appropriate the amount of [illegible]. The petitioner also [illegible] receipt of insured [illegible] in his office [illegible] with intention to [illegible]. As such, he was [illegible] responsible for the loss of insured [illegible] for not intimating [illegible]. In fact, the irregularities caused by the petitioner resulted in the loss of the [illegible] for which, he is responsib as the [illegible] committed these irregularities intentionally. Therefore, punish of [illegible]. The punishment of [illegible] only in the cases where the officials [illegible] or Extra Departmental are [illegible] irregularities which caused loss to the Government.

[illegible]. That the contents of para-4(iv) of th petition are not correct as stated, hence denic It is further submitted that writing of total of insured [illegible] articles despatched to [illegible] office is not [illegible] under rules nor it is customary.

10. That the contents of para-4(v) of the petition are not correct as stated, hence denied. It is further submitted that the petitioner has tried to [illegible] in the air on the theory of probability. [illegible] the Branch Office bag is [illegible] official except concern with the branch is not allowed to see the working. The runner [illegible] by the petitioner in [illegible]. It is totally wrong to say that the mischief would have been committed by the runner in connivance with other miscreants. The bag was actually correctly transferred to the applicant and he himself has committed fraud and now throwing the onus on the other innocent persons.

11. That the contents of para-4(vi) of the petition are not correct as stated, hence denied. It is further submitted that bag was closed at [illegible] office and it was transferred at [illegible] Post Office directly. There was no transit in between the above two post offices [illegible]

KK

RSSingh

preliminary inquiry [illegible] conducted [illegible] the above two points [illegible] established that the mischief was done by the petitioner, only then the charge sheet was [illegible].

12. That the contents of [illegible] (viii) of the petition are not correct as stated, hence denied. It is further submitted that the [illegible] of [illegible] Dubey has not been [illegible] by the Inquiry Officer in his report [illegible] he failed to note the total number of insured letters sent to Branch Office [illegible] the [illegible] Branch Office slip as this omission is not covered by any rule. [illegible] the entry of insured [illegible] signed by the petitioner and account officer [illegible] intimated that no cutting was [illegible], hence it was not necessary to [illegible] the Post office about the difference [illegible] ink used in cutting and [illegible] of the [illegible] of the Branch Office slip.

13. That the contents of [illegible] (viii) of the petition are not correct as stated, hence denied. It is further submitted that [illegible] report of the Inquiry Officer [illegible] of Rule [illegible], [illegible] 94 of Branch Office rules and rule 17 [illegible]

R S Singh

(Conduct of service) Rules, 1964.

14. That the contents of para-4 (ix) of the petition are not correct as stated, hence denied. It is further submitted that the petitioner has violated the provisions of rule 160, 54 and 27 of branch office rules and the violation of the above rules leads to infringement of provision of rule-17 of the [illegible] (Conduct of service) Rules, 1964. A photo stat copy of the [illegible] of rule 27, 54 and 160 are being filed herewith and marked as Annexure-[illegible] to this affidavit.

15. That the contents of para-[illegible] of the petition are not correct as stated, hence denied. It is further submitted that every [illegible] is provided with Branch Office rule [illegible] in Hindi and it is expected to [illegible] should function according to the norms mentioned therein. The petitioner should have also followed rule-27 of Branch Office and acted accordingly. [illegible] according to his version he [illegible] insured letter under reference [illegible] out and he received only the insured [illegible] a serious irregularity [illegible]

KK

[illegible]

reported by the petitioner [illegible] failed even to intimate it through the daily account of date

16. That the contents of para-4(xi) of the petition are not correct as stated, hence denied. It is further submitted that the departmental rules have been strictly followed in the case of the petitioner.

17. That the contents of para-4(xii-A) of the petition are not correct as stated, hence denied. It is further submitted that the violation of 37 and 3[illegible] by the petitioner has not been added by the appellate authority in his order. In fact, it has already been mentioned that the article of charges was given to the petitioner.

18. That the contents of para-4(xii-B) of petition are not correct as stated, hence denied. It is further submitted that entry of these insured letter was done by the Branch Office sub-account. postal Assistant. The treasurer had to check it only according to rules, that the articles mentioned in the branch office slip are correctly

being despatched. The writing of total number is not governed by any rule. Hence, there is no violation of any rule by the Treasurer. The version of applicant that the violation of custom and tradition should have been taken seriously is worthless.

19. That the contents of para-4(xii-C) of the petition and 4(xiii-D) of the petition needs no comments. It is further submitted that as the petitioner did not cooperate, the seal, cord, leave bag etc. of the [illegible] frustrated the enquiry to ascertain the loss of insured letter, hence a decision had to be arrived at that the insured letter was misplaced by the petitioner.

20. That the contents of para-4(xiv) of the petition is correct, hence denied. It is further submitted that during the enquiry, the petitioner was found guilty of the charges levelled against him as mentioned above.

21. That in reply to the contents of para-5 of the petition, it is submitted that none of the grounds taken by the petitioner are sustainable in the eyes of law, the petition is [illegible]

of merits, hence liable to be dismissed with costs.

22. That the contents of paras-6 and 7 of the petition needs no comments.

23. That in reply to the contents of para-8 of the petition, it is submitted that in view of the facts and circumstances mentioned above, the petitioner is not entitled to any of the reliefs referred in para under reply.

24. That the contents of paras-9,10,11 and 12 of the petition are the matters of record, hence need no comments.

25. I, the deponent above named do hereby verify that the contents of paras 1, 2 and 3 of this affidavit are true to my personal knowledge; those of paras 4 to 20, 22 to 24 are based on record and those of para 21 are based on 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 Singh

R Singh

I, D.R. [illegible], Clerk to Sri [illegible], Advocate, High Court, [illegible] do hereby declares that the person [illegible] the affidavit and alleging himself to [illegible] is known to me from perusal of papers.

Chaudhary
Clerk

Solemnly affirmed before me on this 21st day of September, [illegible] at 9.00 a.m. by the deponent who has been identified by the aforesaid Clerk.

I have satisfied myself by examining the deponent [illegible] has understood the contents of this affidavit which have been read over and explained to [illegible].

K.K. Mishra
[illegible]

R Singh

K.K. Mishra,
[illegible]

83/1066
21.9.88

KK

Before The Central Administrative Tribunal, Allahabad-1

O.A. Regn. No.524 Of ~~1990~~ 1989

Durga Prasad versus Union Of India & Others

REJOINDER

Applicant's parawise comment to the Reply Affidavit filed by the learned Respondents is submitted below. The paras requiring no comment have been omitted.

1) Contents of Para 4 of the Reply Affidavit (RA in brief hereafter) are denied. It is wrong to say that the irregularities were committed with fraudulent intentions. Had it been so the Resp. No.1 would never have awarded the punishment of Removal from service. He would have awarded the punishment of Dismissal from services.

2) Contents of para 5 are denied. The Enquiry had not been fair. When ever the Defence Assistant happened to be absent the Enquiry proceedings were never adjourned; on the other hand whenever the presenting officer happened to be absent the proceedings were invariably adjourned. Thus the Inquiry Officer (I/O in brief hereafter) acted with partiality.

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21/11/91
DR

3) Contents of para 8 of the RA are denied The applicant's contention is that because the cashier failed to write the number of Insured letters despatched in words, some miscreant in transit must have abstracted the Insured letter. No Enquiry was made on the Transit point. Availability of Red - Ink used in correcting the Total of Insured letters sent, from 3 to 2 in sub post Office Utraula was not made. Thus due to these two major shortcomings in the Preliminary Enquiry it is baseless ~~to~~ to conclude that none but the applicant had misappropriated the value of the Insured letter. No proofs have been advanced to establish the presumption that the irregularities were comited intentionally by the applicant.

Received copy
[illegible]
21/11/91

3) Contents of para 9 of the RA are denied. It is

RuTewari

definitly customary to write the total in words & figures of the total number of Insured letters/Parcels despatched by the supervising Officer on both the copies of the B.O. Slip in red ink. If, however the Respondents say that this practice is not being followed as a matter of Routine they will be requested to establish it before the court by producing 5 B.O.Slips of different offices of different dates in the year 1987 viz the year of Incidence or relevant date. Moreover had it not been the custom ~~same~~ the cashier would never have accepted this as his omission before the I /O

4) Contents of Para 10 are emphatically denied. The respondents have failed to deny categorically the fact that they failed to make any enquiry from the staff involved in transit. They also did not make any enquiry about the availibility of the red ink in the Account Office at Utraula with which the total of Insured letters was altered from 3 to 2. Thus there being two major short-comings in the preliminary Enquiry itself the whole Disciplinary Proceeding is not maintainable.

5) .. Contents of Para 11 are denied as they are quite illogical.. The bag closed by Utraula Sub Post Office for Parsauna B.O. must necessarily have been carried by some agency from Utraula B.O to Parsauna. Thus it is wrong to say that there was no transit between Utraula & Parsauna unless the mail arrangement prescribed conveyance of the said bag by the Branch Postmaster Parsauna himself. But it was not prescribed.

6) Contents of para 12 of RA are denied. To write the total no. of Insured articles being despatched in words and figure on both the copies of B.O. Slip by the supervising officer is a deep rooted tradition obtaining all over India and due to this tradition the cashier admitted before the I /O that he had failed to write the total no. of Insured letters despatched in words on the carbon copy of the B.O.Slip.

7) Contents of Para 13 of the RA are denied. as they are quite illogical. The applicant had stated in para 4(viii)

RKTiwari

of his plaint that he was charged for his failure to observe the provisions of Rule 169 of B.O.Rules The I/O has given in his findings that the applicant in addition to Rule 169 of B.O. Rules has also voilated the provisions of Rules 37 & 54 ibid. Tho I/O had no jurisdiction to give his openion about the said two rules viz. 37 & 54. Thus the I/O having acted beyond his jurisdiction his Report is not maintainable.

8) Contents of para 14 are not admitted. The applicant according to the Memo. Of charges was never charged for having violated the provisions of Rules 37 & 54 of B.O. Rules Thus to hold him liable for violating these rules too is to act beyond jurisdiction.

9) Contents of Para15 of RA are denied. No copy of B.O. Rules in Hindi was ever supplied to the applicant. He is almost sure even today such a copy must not have been supplied to Parsauna Branch Post Office.

10) Contents of Para 16 are denied as its not a logical reply to para 4(xi) of the Petition.

11) Contents of Para 17 are denied. The applicant, as stated above in Para 8 of this Rejoinder, the applicant was never charged for having violated the provisions of Rules 37 & 54 of B.O.Rules. The appellate authority while narrating in brief the charge levied against the applicant had himself added violation of Rules 37 & 54 of B.O.Rules in order to justify the award of punishment of Removal from Service.

12) Contents of Para 18 of the RA are denied. There does exist a tradition of writing the total no. of Insured letters/ Parcels despatched to a B.O. in words and figures in red ink by the supervising Officer. To establish non existance of such a tradition the Respondents, as requested in para 3 of this Rejoinder, may produce before the court B.O.Slips for 5 different dates.

RnTiwari

13) Contents of Para 19 are denied. The respondents have wilfully omitted to answer the allegation made in Para 4(xii) (d) of the Plaint thus the same stands established. However in reply to the allegation made in para 4(xii) (c) of the plaint the respondents have stated in this para in the last sentence "hence a decision had to be arrived at that the Insured letter was misplaced by the Petitioner" against this view of the appellate authority the award of punishment of Removal from service is never justified. The misplacement of an Insured letter does not amount to any moral Turpitude.

14) Contents of Para 20 are denied; as the conclusion drawn in this para by the learned Respondents does not correspond to the ~~n~~ their averments in the earlier paras of the RA.

15) Contents of Para 23 of the RA are denied; as the respondents have miserably failed to controvert any of the allegations made by the applicant, as such the applicant is fully entitled to get the reliefs sought for.

In Verification

I, Durga Prasad, the applicant do hereby verify that the conte of paras 1 to 15 above are true to the best of my knowledge & belief. Nothing material has been supressed.

Durga Pd.

dated : 20-1-1991. Rejoinderist

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

T.A. 121/92(T.L)

Before the Central Administrative Tribunal, Allahabad
O.A. Registration No. 524 Of 1989
Durga Prasad versus Union Of India & Others

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Application u/s 19 of the Administrative Tribunal Act, 1985

Filed on 23.6.1989

O.A. Regn. No. Of 1989

Signature of Registrar

In The Central Administrative Tribunal, Allahabad

Between

Durga Prasad .... Applicant

And

(1) Supdt. Posts Gonda

(2) DPS Lucknow

(3) Union Of India through Secretary
Ministry Of Communications, G.O.I.
NEW DELHI-1 Respondents

R [illegible]

(R.K. [illegible])
Advocate for the Applicant
154, [illegible], Allahabad

Durga Pd

Details of Application

1—Particulars of the Applicant :

(i) Name of Applicant [illegible]

(ii) Name of Father/~~Husband~~ [illegible]

(iii) Age of Applicant 32 years

(iv) Designation & Particulars of Office where employed or was last employed [illegible]

(v) Office Address N.A.

(vi) Address for service of Notice [illegible]

2—Particulars of the Respondents :

(i) Name &/or Designation (1) [illegible]

(ii) Official Address (2) [illegible]

(iii) Address for service of all notices (3) [illegible]

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

(i) Order No. [illegible] [illegible]

(ii) Date [illegible] Anx 13-14 [illegible] at pp 15-16

(iii) Passed by [illegible] [illegible]

(iv) Subject in brief Removal from service

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 this 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. Tewari

[illegible]

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4(i) The applicant entered the Department of Posts as an Extra Departmental Branch Postmaster of Parsama B.O. in A/C with Utraula Sub Post Office in Gonda Postal Dn. in October 1985. On 27-1-1987 he was served with a memo. of charges comprising of six charges by the learned Supdt. Posts Gonda (Resp. No.1). The said six charges are reproduced verbatim on the first two pages of the Punishment order at Ann. A-1 on pages [illegible] to [illegible]. The applicant denied the charge No.2 and hence an Enquiry Officer (E/O in short) was deputed to hold an Enquiry. He held the charges proved vide his Enquiry Report (E/R in short) dated 6-5-88 copy at Ann. A-3 on Pages 17 to 26. Totally relying on this E/R the learned Supdt. (Resp. No.1) awarded the applicant the punishment of Removal from Duty vide his punishment order cited above.

4(ii) The applicant preferred an appeal to the learned DPS Lucknow (Resp. No.2) on 9-7-88 vide copy at Ann. A-5 on pages 27 to 39. As the appeal too was rejected by the learned Resp. No.2 vide his appellate order dated 30-9-88 copy at Pages 15 to 16. Hence this application is submitted before this Hon'ble Tribunal.

4(iii) Charges No.1, 4 and 5 relate to one and the same charge viz Non-receipt of Bhagwati Bombay Insured Letter No.290 (Hereafter called Ins. Letter) valued at Rs.500/- by the applicant from the B.O. Bag closed by the A/C Office Utraula on 19-11-1986 and due to the non-observance of the relevant Rules a loss of Rs.500/- was caused to the Govt.

The main point requiring adjudication is :-

(a) Whether the loss was caused to the Govt. because the Applicant misappropriated the value of the Ins. Letter fraudulently by not reporting its non-receipt immediately.

OR

(b) the applicant actually did not commit fraud but the same could not be ascertained or say the Enquiry was frustrated because the applicant acted against the Rule.

If (a) is established he would not grudge if his punishment of Removal from service is converted into that of Dismissal. In case (b) is established he does deserve to be put back to duty on making good the loss caused to the Govt. As in such cases a departmental employee is always let off with a punishment of Recovery and that too in monthly instalments not exceeding 36 instalments.

4(iv) For taking such a decision the minutest detail of the case is a must which is described as under :-

On 19-11-1986 Utraula Post Office despatched 3 Insd. Letters to Parsauna Branch Post Office bearing No. 074, 290 and 261. The S.O. and A/C clerk Shri Hanuman Prasad prepared a B.O. Slip for Parsauna in duplicate by means of Pencil and Carbon. B.O. Slip is a prescribed printed form supplied in lot to each Sub/Head Post Office by the Forms Press Aligarh. On this slip the S.O. clerk invoiced the said three Insured Letters. Insured letter in question was entered at Serial No. 2 of the slip. A total was then struck in words and figures thus (3) three Insureds in Hindi and Devnagri script. He then carried it to the Cashier Shri Ram Naresh Dubey who physically verified the entry of the Insured letters and signed each copy separately in token of having carried out the check. He also entered the No. of Insured letters in the red ink just above his signature on the Pencil copy of the B.O. Slip but omitted to write that number on the Carbon copy. The Cashier Shri Dubey has clearly admitted this omission in his statement dated 16-3-88 given before the I/O and

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countersigned of Amn. A-6 at pages 4, 0 & 4. To write the total number of Insured letters being despatched by the cashier is not warranted by Rule 635 of P&T Manual Vol. VI part III, it is being written traditionally all over India. This tradition has become such a deep rooted custom that it has acquired the force of law. This is why Shri Dubey the Cashier has stated in his statement that in the rush of work he omitted to write the total No. of Insured letters despatched in words & figures on the Carbon copy of the B.O.Slip. The cashier himself wrapped the three Insured letters with the Carbon copy of the B.O.Slip tied it with a cotton twine, placed it in the B.O.Bag for Parsuma in the immediate presence of Shri Hanuman Prasad and then got the B.O.Bag tied and sealed before the joint presence of S/Shri Hanuman PA & R.S. Dubey. The B.O. Bag was then passed on to the mail Branch for further despatch to Parsuma B.O. through Runner.

4(v) Taking advantage of the omission committed by the cashier some miscreant with the connivance of the Runner/ or the Runner himself abstracted the Insured letter by opening the B.O. Bag and scoring the entry of the Ins. letter in red ink and also correcting the total from 3 to two in red ink. The bag would then have been closed and its original seal must have been superimposed due to which the seal impression must have become quite illegible which the applicant could not mark. The applicant further failed to mark that although the total of Ins. letters given in figures was changed from 3 to 2 the total given in words remained undisturbed. All this happened because the applicant was a quite new man (Appointed in October 1985) had never seen any such fraud. The applicant could realise what had happened

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then he was asked by the Account office on 22-11-86 viz. the next day to acknowledge the receipt of the Ins. Letter. He then made a report regarding the non-receipt of the Ins. Letter.

4(vi) Had any enquiry been made of the suspect point it is sure case [illegible] must have been caught. Moreover it is the first principle of making an Enquiry into a case of Loss/Fraud to start from the point where the bag was closed and to proceed on as the bag proceeded. Here in the instant case the enquiry had not been conducted from all those who handled the bag in transit. Thus the Enquiry is quite incomplete and the Disciplinary proceedings based thereon are not maintainable.

4(vii) A perusal of the Enquiry Report will show that the I/O has wilfully concealed the facts deposed by Shri Ram Naresh Dubey from mentioning it in his Enquiry Report, discussing it and offering his opinion thereon. A copy of the Statement given by the treasurer Shri Dubey on 16-3-88 before the I/O is appended herewith at Ann. A-6 on Pp 40-41. In this statement Shri Dubey has clearly admitted that he forgot to write the total of Insured letters on the carbon copy of the B.O. Slip although he wrote that on the Pencil/Office copy. The I/O further omitted to mention in his Enquiry Report another apparent omission on the part of the Inspector Shri R.K.Tewari who failed to make any enquiry on the point whether the red ink with which the Ins. letter was scored out and the carbonic total 3 was changed into 2 was available in the mail branch or elsewhere in Utraula P.O. His stt. before the I/O is reproduced below

स्याही की भिन्नता के विषय में कोई जाँच लेखा कार्यालय से मैंने नहीं किया था क्योंकि लेखा कार्यालय ने काटा करना स्वीकार नहीं किया था।

R.K.Tewari

Durga Pd

without caring to see so many shortcomings in the Enquiry and the Preliminary Enquiry the learned Supdt. has held that it was the applicant who scored the entry of the Ins. letter in red ink and it was he who changed the total from 3 to 2. He was therefore believed to have committed the fraud & misappropriation himself.

4(viii) The Enquiry Report is further not maintainable because the I/O has exceeded his jurisdiction. In para 1 of the charges (which also has been denied) the Disciplinary authority has charged the applicant for his failure to observe the provisions of Rule 269 of B.O. Rules. The I/O's jurisdiction was thus limited to enquire into the fact whether the applicant actually violated the said Rule 269 or not. He has given in his findings that the applicant has violated Rule 269 inter-alia he has also violated the provisions of Rules 97 & 94. Such a finding is unwarranted & the I/O having exceeded his jurisdiction his Enquiry Report is not maintainable.

4(ix) The learned Supdt. has charged the applicant for violating the provisions of Rule 269 of B.O. Rules & Rule 17 of EDA(C&S) Rules 1964. An extract of these Rules is reproduced as Ann. A-4 on Page 26. It may kindly be observed that the provisions of these Rules have not been violated by the applicant. The entry of Ins. 290 was scored in red ink; the total 3 was also changed from 3 to 2 thus the applicant was perfectly justified in not copying the entry of this Insured from B.O. Slip into B.O. Journal. In fact as aforesaid the applicant had failed to observe the provisions of Rule 97 of B.O. Rules. As the applicant was not charged for his failure to observe the provisions of Rule 97 he can not be punished for the same.

4(x) The Resp. No.3 is an officer promoted from Inspector's

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cadre. During his career as an Inspector he must have been mostly dealing with D.O. Rules and yet such a seasoned Officer framed a wrong charge-sheet on which the punishment of Removal from service is never warranted, how he expected the applicant a [illegible] service [illegible] to have known the intricacies of Rule 37 of P.O. Rules and to have acted as per its provisions.

4(xi) Had a departmental Postal Assistant been there in the place of the Poor Applicant it would never have been possible to award him the same punishment of removal from service. In case of a departmental employee only half the amount of the value of Insured would have been recovered from him and the rest half would have been recovered from the Treasurer cum Cashier Shri Dubey

4(xii) (a) The appellate authority has added violation of Rules 37 & 54 of D.O.Rules by the applicant in Para 8(XA) of the his appellate order. Such a material addition in the Memo of Charges to make it maintainable and that too at the appellate stage is not warranted by any rule.

(b) The omission on the part of Treasurer/Cashier to write the total number of Insured Letters being Despatched on the Carbon copy of B.O.Slip meant for the applicant has been ignored by the learned Appellate authority on the ground that the same was not warranted by Rules. He has altogether left the applicant's argument that the Treasurer/Cashier has violated the deep rooted Tradition being followed all over India of writing the total no. Insured letters being Despatched n un[illegible]ted. The Treasurer/Cashier has himself admitted this omission in his stt. dated [illegible] given before the I/O & appended herewith as Ann. A-6 on pages 40 & 41.

(c) Giving his finding on the most vital part of the case whether the Ins. letter in question reached [illegible]

R[illegible] Durga Pd

or not the learned DPS has stated thus -

इसी बिन्दु का दूसरा पक्ष जो अपीलार्थी ने उठाया है कि क्या वह बीमा परवाना डाकघर पहुंचा अथवा नहीं इस विषय में कोई लेखन आदि यदि सुरक्षित होते तभी कुछ कहा जा सकता था किन्तु अपीलार्थी ने स्वयं उन्हें समाप्त कर दिया अत: बीमा पत्र की प्राप्ति भी सिद्ध माना जायेगा।

(d) Notwithstanding the fact that the receipt of Ins. letter by the applicant can not be said with any certainty the applicant has been punished for its definite receipt and also fraudulent misappropriation. Although the DPS has also not opined that the Insured letter in question was definitely received by the applicant yet he has upheld the punishment awarded to him for an alleged misappropriation of the Ins. letter.

In view of these facts the appellate order is not maintainable.

4(xiv) The remaining three charges described in paras 2,3 & 6 are mere clerical omissions deserving little notice as also confirmed by the Exp. No.9.

5. GROUNDS OF RELIEF :-

(a) Because the I/O has exceeded his jurisdiction for he was asked to Enquire & report whether or not the applicant had violated the provisions of Rule 269 of P.O. Rules, he has reported that the applicant has inter-alia violated rules 57 & 54 also.

(b) Because the I/O has wilfully suppressed from mentioning in his E/R the most important omission on the part of Treasurer/Cashier to note on the duplicate copy of the B.O. Slip total no. of Insured letters being despatched.

(c) Because the Preliminary enquiring Officer Shri Tewari has clearly admitted in his exam. etc. before the I/O that he did not make any enquiry about the red ink which was used in scoring the entry of Ins. letter and in changing the the total from 3 to 2 & the I/O also did not mention this fact in his E/R.

Durga Pd

(d) Because no enquiry was made at the transit point there alone the fraud is strongly suspected to have been committed, thus the whole Enquiry proceeding is quite meaningless.

6. Matters not previously filed or pending with any court -

The applicant further declares that he had not previously filed any application, writ petition, or suit regarding the matter in respect of which this application has been made before any court of law or any other authority or any other bench of this Tribunal and nor any application, writ petition, suit is pending before any of them.

7. Remedies exhausted :-

The applicant preferred an appeal to DPS [illegible] who rejected the same vide his appellate order dated 30-9-88 at Ann. A-2 on pages 15 to 16

8. Reliefs sought for :- The applicant prays for the following reliefs -

(i) The punishment order No.E/[illegible]/10/83-87/DP dated [illegible] and the Appellate order No.DDI/[illegible]/A-52/88/3 dated 30-9-88 issued by the Respondents No.1 & 2 respectively may both be set aside as they both are not maintainable.

(ii) The applicant may be put back to duty from retrospective effect.

(iii) He may be granted the cost of this suit. He may further be granted all other reliefs deemed fit by the Hon'ble Tribunal.

9. There is no prayer for any Interim Relief.

[signature]

[illegible] Pd

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.

10—Matters not previously filed or pending with any court :

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any court of law or any other authority or any other Bench of the Tribunal and nor any such application, writ petition or suit is pending before any of them.

11—If application is sent by Regd. Post, does the applicant desire to have oral hearing at the Admission stage if so he must attach a self addressed P. C. NO

12—Particulars of the Postal Order in respect of the application :

(i) No. of I. P. O. [illegible] 630338

(ii) Name of Issuing P. O. Purushottam Nagar, Allahabad

(iii) Date of Issue 1.5.89

(iv) P. O. at which payable— Allahabad Head Post Office

13—List of enclosures :

(i) Vakalatnama

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

(iii) Six documents to be relied upon

In verification

I, [illegible] S/o Shri [illegible] aged [illegible] years R/O [illegible] and working as [illegible] do hereby verify that the contents from Paras 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place—Allahabad

Date 30. 6. 1989.

Signature of applicant

To

The Registrar, Central Administrative Tribunal, Allahabad - 211001

(R. K. Tewari)
Advocate
154, Purushottam Nagar,
Allahabad—16

Annexure A1

भारतीय डाक विभाग
कार्यालय अधीक्षक डाकघर, गोंडा मंडल,
गोंडा-271001.

ज्ञापन सं0-एल-अनु/10/86-87
दिनांक 16.5.1988.

श्री दुर्गाप्रसाद कार्य निमुक्त शाखा पोस्टमास्टर परसौना (गोंडा) को इस कार्यालय के ज्ञापन सं0-सम दिनांक 27.3.87 द्वारा सूचित किया गया था कि उनके विरुद्ध डाक व तार अ.वि.एजेन्ट (आचरण तथा सेवा) नियमावली 1964 के नियम 8 के अन्तर्गत जाँच की कार्यवाही प्रस्तावित है। उक्त ज्ञापन के साथ आरोपों का विवरण, सम्बन्धित प्रलेखों तथा साक्षियों की सूची भी प्रेषित की गयी थी एवं उनसे कहा गया था कि वे आरोपों का स्वीकार अथवा अस्वीकार करने से सम्बन्धित प्रतिवेदन 10 दिन के अन्दर प्रेषित करें। आरोपों का विवरण निम्नलिखित है।

1-उक्त श्री दुर्गा प्रसाद ने शा.पो.मा. परसौना के पद पर कार्य करते हुए दिनांक 10.11.86 को लेखा कार्यालय, उतरौला से शाखा डाकघर पर्ची के साथ तीन बीमा पत्र प्राप्त किये परन्तु उन्होंने धारावाही बीमा पत्र सं0-490 मू. 500/- रू. को स्वीकार नहीं किया एवं शाखा डाकघर जर्नल में अंकित नहीं किया। उक्त बीमा पत्र उतरौला डाकघर के उप लेखा डाक सहायक तथा खजांची ने शाखा डाकघर थैले में बन्द करके शाखा डाकघर परसौना में भेजा था परन्तु बदनीयती से उक्त श्री दुर्गा प्रसाद ने उक्त बीमे की प्राप्ति स्वीकार नहीं की। एतद्द्वारा यह आरोपित है कि उक्त श्री दुर्गा प्रसाद ने शाखा डाकघर नियमावली के नियम 169 के प्राविधानों का उल्लंघन करते हुए कर्तव्यनिष्ठा व सत्यनिष्ठा न बनाये रखकर डाकघर व तार अ.वि.ए. (आचरण तथा सेवा) नियमावली 1964 के नियम 17 के प्राविधानों का उल्लंघन किया।

2-उक्त श्री दुर्गा प्रसाद ने शा.पो.मा. परसौना के पद पर कार्य करते हुए दिनांक 29.9.86 को बीमा पत्र सं0- 264 मू. 600/- रू. की प्राप्ति स्वीकार नहीं की जब कि उसके साथ अन्य 3 बीमा पत्र भी भेजे गये थे जिसे उन्होंने अपने दैनिक लेखा के माध्यम से पाना स्वीकार किया। उन्होंने अपने बयान दिनांक 14.10.86 के द्वारा स्पष्ट किया कि उक्त बीमा पत्र उन्होंने भूल से दैनिक लेखा पर नहीं दर्ज किया था। इस प्रकार की लापरवाही करके उक्त श्री दुर्गा प्रसाद ने विभागीय नियमों का उल्लंघन किया। एतद्द्वारा यह आरोपित है कि उक्त श्री दुर्गा प्रसाद ने शाखा डाकघर नियमावली के नियम 169 के प्राविधानों का उल्लंघन करते हुए कर्तव्यनिष्ठा व/सत्यनिष्ठा न बनाये रखकर डाकघर व तार अ.वि.ए. (आचरण तथा सेवा) नियमावली 1964 के नियम 17 के प्राविधानों का उल्लंघन किया।

3.उक्त श्री दुर्गा प्रसाद ने शा.पो.मा. परसौना के पद पर कार्य करते हुए दिनांक 13.11.86 को अपने दैनिक लेखा पर बीमा पत्र सं0-517 के स्थान पर बीमा पत्र सं0- 345 का प्राप्त होना दिखाया जब कि उप डाकघर उतरौला से उप डाकघर पर्ची पर बीमा पत्र सं0- 517 चढ़ाकर उन्हें भेजा गया था। अपने

क्रमशः

Durga P.

दिनांक 15•11•86 में उक्त श्री दुर्गा प्रसाद ने स्वीकार किया कि भूल से उन्होंने 517/1100/- के स्थान पर 345/1100-00 लिख दिया था एतद्द्वारा यह आरोपित है, कि उक्त श्री दुर्गा प्रसाद ने शाखा डाकघर नियमावली के नियम 175 के प्राविधानों का उल्लंघन करते हुए कर्तव्यनिष्ठा व सत्यनिष्ठा न बनाये डाक व तार अ•वि•ए• [आचरण तथा सेवा] नियमावली 1964 के नियम 17 के प्राविधानों का उल्लंघन किया ।

4-उक्त श्री दुर्गा प्रसाद ने शा•पो•मा• परसौला के पद पर कार्य करते हुए दिनांक 10•11•86 को शाखा डाकघर पर्ची प्राप्त किया । जिस पर तीन बीमा पत्र चढ़े हुए थे । उनका कहना है कि धारावी बीमा पत्र सं0- 290 प्राप्त नहीं हुआ परन्तु उन्होंने न तो 10•11•86 के दैनिक लेखा पर बीमा प्राप्त होने सम्बन्धी कोई सूचना लिखी और न ही 10•11•86 को सम्बन्धित अधिकारियों को सूचित किया । उन्होंने सम्बन्धित डाक थैले को भी सुरक्षित नहीं रखा । शाखा डाकघर थैला उन्हें दिनांक 10•11•86 को 13•30 बजे प्राप्त हुआ था । यदि उक्त बीमा पत्र सं0- 290 प्राप्त नहीं हुआ था तो उन्हें उसी दिन तुरन्त लेखा कार्यालय उप मण्डलीय निरीक्षक तथा मण्डलीय कार्यालय गोंडा को देना चाहिए था । नियमानुसार कार्यवाही न करके उक्त श्री दुर्गा प्रसाद ने 11•11•86 को रजिस्टर्ड पत्र द्वारा सम्बन्धित अधिकारियों को सूचित किया एवं अपने दैनिक लेखा दिनांक 10•11•86 पर कुछ भी इस सम्बन्ध में नहीं लिखा । इस प्रकार यह आरोपित है कि उक्त श्री दुर्गाप्रसाद ने शाखा डाकघर नियमावली के नियम 17 तथा 54 का उल्लंघन करते हुए कर्तव्यनिष्ठा व सत्यनिष्ठा न बनाये रखकर डाक व तार अ•वि•ए• [आचरण तथा सेवा] नियमावली 1964 के नियम 17 के प्राविधानों का उल्लंघन किया ।

5•उक्त श्री दुर्गा प्रसाद ने शा•पो•मा• परसौला के पद पर कार्य करते हुए दिनांक 10•11•86 को लेखा कार्यालय उतरौला से शाखा डाकघर पर्ची प्राप्त की जिस पर तीन बीमा पत्र चढ़े हुए थे एवं किसी प्रकार की काट पीट नहीं थी परन्तु उन्होंने बीमा पत्र सं0-290 मू•500/- की प्रविष्टि को अपने हाथों से काट दिया तथा उक्त बीमे की प्राप्ति स्वीकार नहीं की । इस प्रकार उन्होंने सरकारी कोष को 500/- रू• की क्षति पहुँचायी । एतद्द्वारा यह आरोपित है कि उक्त श्री दुर्गा प्रसाद ने कर्तव्य निष्ठा व सत्यनिष्ठा न बनाये रखकर डाक व तार अ•वि•ए• आचरण तथा सेवा] नियमावली 1964 के नियम 17 के प्राविधानों का उल्लंघन किया ।

6-उक्त श्री दुर्गा प्रसाद ने शा•पो•मा• परसौला के पद पर कार्य करते हुए दिनांक 11•11•86 को अपने दैनिक लेखा में धनादेश भुगतान की मद में 165/- दिखाये जब कि उनके द्वारा प्राप्त धनादेश पेड वाउचरों का कुल योग 160/-रू0 ही होता था अपने इस कृत्य से उक्त श्री दुर्गाप्रसाद ने सरकारी नकदी 5/-रू• का दुर्विनियोग करने का प्रयत्न किया । एतद्द्वारा यह आरोपित है कि उक्त श्री दुर्गा प्रसाद ने शा•डा•नि• के नियम 174 तथा 175 के प्राविधानों का उल्लंघन करते हुए कर्तव्यनिष्ठा व सत्यनिष्ठा न बनाये रखकर अ•वि•ए• [आचरण तथा सेवा] नियमावली 1964 के नियम 17 के प्राविधानों का उल्लंघन किया ।

क्रमशः 3

Durga Pd

उक्त ज्ञापन की प्राप्ति के पश्चात आरोपित कर्मचारी ने अपनी गलती मानी परन्तु बीमा पत्र का प्राप्त करना स्वीकार नहीं किया।अत: यह पता लगा लेने के पश्चात कि आरोप पत्र दिनांक 1-4-87 को वितरित किया गया था, दिनांक 10-9-87 को श्री वी-सी-राज सहायक अधीक्षक को जाँच अधिकारी तथा श्री के-बी- श्रीवास्तव बचत विकास अधिकारी को प्रस्तोता अधिकारी नियुक्त किया गया । 1-4-87 से 10-9-87 के बीच कर्मचारी ने बार-बार लिखकर यह इच्छा व्यक्त की कि सरकारी क्षति 500/- को स्वेच्छा से जमा करने को तैयार है यदि उन्हें सेवा में वापस लेलिया जाय । चूँकि यह सहमति शर्तों के साथ थी इसलिए उन्हें यह लिखा गया कि यदि वे चाहें तो धनराशि जमा करने के लिए स्वतन्त्र है क्योंकि क्षति उनकी लापरवाही से हुई है । परन्तु उन्होंने यह धन जमा नहीं किया । दिनांक 24-9-87 को श्री के-बी-श्रीवास्तव के स्थान पर श्री डी-एन-तिवारी को प्रस्तोता अधिकारी नियुक्त किया गया परन्तु बाद में दिनांक 15-1-88 के आदेश द्वारा श्री डी-एन- तिवारी के स्थान श्री एस-एल- त्रिपाठी परि-निरीक्षक को प्रस्तोता अधिकारी नियुक्त किया गया और उन्होंने जाँच रिपोर्ट प्रस्तुतकरने तक प्रस्तोता अधिकारी के रूप में कार्य किया । जाँच अधिकारी ने निर्धारित कार्य विधि का पालन करते हुए दिनांक 6-5-88 को अपनी जाँच रिपोर्ट प्रस्तुत की और सभी आरोपों को सत्य पाया।जाँच अधिकारी ने तथ्यात्मक विवरण देते हुए यह सिद्ध किया है कि बीमा पत्र आरोपित कर्मचारी द्वारा जानबूझ कर गायब किया गया है । अन्य सभी आरोपों को भी जाँच अधिकारी ने सत्य सिद्ध पाया है और मैं जाँच अधिकारी की आख्या से पूर्णतया सहमत हूँ ।

मैंने पूरी पत्रावली,जाँच अधिकारी की जाँच रिपोर्ट सम्बन्धित प्रलेखों तथा मौखिक जाँच के दौरान प्रस्तुत किये गये साक्ष्यों का भली भाँति अध्ययन किया और मैं इस निष्कर्ष पर पहुँचा हूँ कि आरोपित कर्मचारी इतना लापरवाह रहा है कि उसने कभी भी सन्तोषजनक ढंग से कार्य नहीं किया । तथा बीमापत्रों के दुरुपयोग करने की मंशा से उसने आरोप संख्या 2 से 4 तक में दिखाये गये डाक वस्तुओं के बारे में अभिलेखों में सन्देहात्मक स्थिति पैदा की ।

एक ऐसा कर्मचारी जो बीमा पत्र प्राप्त करके भी उसके न प्राप्त होने की गलत रिपोर्ट करता है तथा स्पष्ट रूप से अपने हाथों से बी-ओ-स्लिप की कार्बन कापी पर बीमा पत्र के इन्दराज को काट देता है वह किसी भी दशा में विभाग में रखने के योग्य नहीं है । प्रदर्श क-2 तथा क-5 पर प्रविष्टयाँ समान है और लेखा कार्यालय द्वारा प्रयोग की गयी लाल स्याही एक है । जिस स्याही से सन्दर्भित बीमा पत्र की प्रविष्टि को काटा गया है वह स्याही वही है जो शाखा पोस्टमास्टर ने प्रयोग की है यह पूरी तरह आरोपित कर्मचारी की जालसाजी को पुष्टि करता है । सभी आरोपों की विवेचना के पश्चात् मैं यह पाता हूँ कि यदि आरोपित कर्मचारी को विभाग में रखा गया तो वह विभाग को गम्भीर क्षति पहुँचा सकता है ।

अत: एतद्द्वारा मैं आर-एस-सिंह,अधीक्षक डाकघर गोंडा मण्डल,उक्त श्री दुर्गा प्रसाद शाखा पोस्टमास्टर परसोना को तत्काल प्रभाव से सेवा से हटाने (Removal from service) का आदेश देता हूँ ।

(आर-एस- सिंह)
अधीक्षक डाकघर
गोंडा मंडल,
गोंडा-271001

Photo
TRUE COPY
(R. N. Tewari Advo.)
Durga Pd

- 15 -

Annexure A2

भारतीय डाक विभाग

कार्यालय निदेशक डाक सेवायें, लखनऊ क्षेत्र, लखनऊ-7

ज्ञापन सं0: आरडीएल/स्टाफ/ए-52/88/3 दिनांक 30.9.88

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प्रस्तुत मामला श्री दुर्गा प्रसाद, भू0 पू0 शाखा डाकपाल परसौना (गोण्डा) द्वारा की गई अपील दिनांक 9.7.88 का है । अपीलार्थी को अधीक्षक डाकघर गोण्डा के ज्ञापन संख्या: एल/अनि./10/86-87 दिनांक 16.5.88 को सेवा से निष्कासन का आदेश पारित किया गया था । उसी के विरुद्ध यह अपील प्राप्त हुई है ।

2. अपीलार्थी के विरुद्ध मामले का संक्षिप्त विवरण इस प्रकार है:

(क) दिनांक 10.11.86 को परसौना शाखा डाकघर के लेखा कार्यालय उतरौला बाजार द्वारा शाखा डाकघर पर्ची पर अंकित कर तीन बीमा पत्र भेजे गये थे जिनमें धारावी (बम्बई) का बीमा पत्र संख्या 290 धनराशि रू0 500/=भी था किन्तु अपीलार्थी ने इस बीमा पत्र की प्राप्ति स्वीकार नहीं किया, शाखा डाकघर पर्ची की कार्बन प्रति पर इस बीमा की प्रविष्टि को लाल स्याही से काट दिया, सम्बन्धित बी.ओ.बैग को सुरक्षित नहीं रखा, घटना की कोई रिपोर्ट उच्च अधिकारियों को तत्काल नहीं किया । इस प्रकार उसने विभाग को 500/- रुपये की क्षति पहुँचाई तथा शाखा डाकघर नियमावली के नियम 37, 54, 169 तथा अतिरिक्त विभागीय अभि. (आचरण एवं सेवा) नियमावली 1964 के नियम-17 का उल्लंघन किया ।

(ख) दिनांक 29.9.86 को शाखा डाकघर पर्ची पर अंकित बीमा पत्र संख्या 264 धनराशि रुपये 600/- की प्राप्ति स्वीकार न कर शाखा डाकघर नियमावली के नियम 169 तथा अतिरिक्त विभागीय अभिकर्ता (आचरण एवं सेवा) नियमावली 1964 के नियम-17 का उल्लंघन किया ।

(ग) दिनांक 13.11.86 को अपने दैनिक लेखा पर बीमापत्र संख्या 517 के स्थान पर 345 लिख कर शाखा डाकघर नियमावली के नियम 175 तथा अतिरिक्त विभागीय अभिकर्ता (आचरण एवं सेवा) नियमावली 1964 के नियम-17 का उल्लंघन किया ।

(घ) दिनांक 11.11.86 को शाखा डाकघर के धनरादेश भुगतान में रुपये 160/- के स्थान पर रुपये 165/- हिसाब में लेकर 5/- रुपये के दुर्विनियोग का प्रयास किया । इस प्रकार शाखा डाकघर नियमावली के नियम-174, 175 तथा अतिरिक्त विभागीय अभिकर्ता (आचरण एवं सेवा) नियमावली 1964 के नियम-17 का उल्लंघन किया ।

3. उपरोक्त आरोपों पर आधारित एक ज्ञापन अधीक्षक डाकघर गोण्डा के ज्ञापन संख्या: एल/अनि./10/86-87/डी.पी. दिनांक 27.3.87 के माध्यम से जारी कर अपीलार्थी के विरुद्ध नियम-8 की कार्यवाही प्रारम्भ की गई । आरोपों को अस्वीकार करने पर विस्तृत जांच हेतु श्री बी0एस0राज, सहायक अधीक्षक डाकघर गोण्डा को जांच अधिकारी तथा श्री के0पी0श्रीवास्तव, को प्रस्तोता अधिकारी नियुक्त किया गया । मामले में दो बार

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Durga Pd

प्रस्तोता अधिकारी बदले गये और जांच पूर्ण होने के समय श्री एस•एल• त्रिपाठी, परिवाद निरीक्षक को प्रस्तोताअधिकारी थे । जांच अधिकारी ने अपनी आख्या दिनांक 6•5•88 को प्रेषित किया तथा सभी आरोपोंसिद्ध पाया । जांच अधिकारी की आख्या से सहमति व्यक्त करते हुये अनुशासनिक अधिकारी ने उक्त दण्डादेश पारित किया जिसके विरूद्ध विचाराधीन अपील प्राप्त हुई थे ।

4• मैंने, आरोपपत्र, जांच आख्या, साक्ष्यों, दण्डादेश, अपील तथा सम्बन्धित अभिलेखों का सम्यक् अवलोकन तथा अध्ययन किया है । अपीलार्थी ने अपील के प्रारम्भ में ही श्री आर0के0त्रिपाठी, उप मण्डलीय निरीक्षक के विरूद्ध कुछ आरोप लगाये हैं और कहा है कि सारा मामला उन्ही के द्वारा रचित षणयन्त्र है किन्तु अपने कथन के पक्ष में कोई विचारणीय अथवा ठोस प्रमाण नहीं दिये हैं । ऐसा प्रतीत होता है कि अपीलार्थी ने केवल अपने विरूद्ध लगाये गये आरोपों के गुरूत्व को क्षीण करने के दृष्टिकोण से ही किया है । अपील में उठाये गये अन्य महत्वपूर्ण मुद्दे निम्न प्रकार हैं:

§क§ जांच प्रक्रिया केन्द्रीय सिविल सेवा §वर्गीकरण नियंत्रण एवं अपील§ नियमावली 1965 के नियम-14 के प्रावधानों के अनुरूप नहीं सम्पादित किया गया है ।

§ख§ क्या बीमा संख्या 290 धनराशि 500/- वास्तव में दिनांक 10•11•86 को लेखा कार्यालय द्वारा भेजा गया था और परसौंसा शाखा डाकघर में प्राप्त हुआ था ।

§ग§ दिनांक 29•9•86 को बीमा पत्र संख्या-264 की प्राप्ति न स्वीकारना, बीमा संख्या-517 के स्थान पर 345 लिखना तथा 11•11•86 को धनादेश के हिसाब में रूपये 160/- के स्थान रूपये 165/-§एक सौ पैसठ§ रूपये दिखाना महत्वहीन घटनायें है और इनके लिये सेवा से निष्कासन का आदेश नहीं पारित किया जाना चाहिये ।

5• उपरोक्त बिन्दुओं पर विवेचना नीचे की पंक्तियों में किया जा रहा है:

§क§ जहाँ तक प्रथम मुद्दे का प्रश्न है अपीलार्थी का तर्क यह है कि अपीलार्थी का बचाव सहायक दिनांक 21•3•88 को जांच में सम्मिलित नहीं हो सका था, अतएव उस दिन जांच प्रक्रिया रोक देनी चाहिये थी और उसे अपना "लिखित सार" देने का समुचित अवसर नहीं दिया गया । जहाँ तक बचाव सहायक की अनुपस्थिति में जांच कार्यवाही रोकने का प्रश्न है ऐसा कोई प्रावधान नहीं है । यदि बचाव सहायक नहीं आ सकता था तो उस दिन अपीलार्थी किसी अन्य सरकारी कर्मचारी की सेवायें ले सकता था । "लिखित सार" के लिये समुचित अवसर न उपलब्ध कराने के लिये अपीलार्थी का कहना है कि दिनांक 25•3•88 को जांच अधिकारी का सार उन्हें दिनांक 2•4•88 को मिला जबकि दिया गया समय 31•3•88 को समाप्त हो गया था । पुनः दिनांक 7•4•88 को लिखा गया किन्तु इसकी प्रति बचाव सहायक को नही दी गई । उसे दि0 18•4•88 तक का समय दिया गया था । केन्द्रीय सिविल सेवा §वर्गीकरण नियंत्रण एवं अपील§ नियमावली 1965 के नियम-14§19§

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Durga Pd

में आरोपित कर्मचारी को लिखित सार देने की बात कही गई । यह आरोपित कर्मचारी का दायित्व है कि वह लिखित सार तैयार कराने की व्यवस्था करें । अत: इन मुद्दों पर जाँच प्रक्रिया में कोई त्रुटि दृष्टिगोचर नही होती और यह तर्क निराधार है ।

§ख§ दूसरे बिन्दु पर अपीलार्थी का यह कथनहै कि चूँकि शाखा डाकघर पर्ची पर लेखा कार्यालय के खजान्ची ने अंको में भेजे जाने वाले बीमा पत्रों की संख्या नहीं लिखा था अत: उसकी दृष्टि मेंयह जान बूझ कर उसे फसानें के लिये किया गया था । डाक तार नियमावली खण्ड-छ: के भाग-111 का नियम 635 §4§7 के द्वारा उस अभिलेख पर सूक्ष्म हस्ताक्षर करने का ही आदेश देता है जिस अभिलेख पर बीमा पत्र चढ़ाये गये हैं । इस प्रकरण में भी उक्त प्रावधानों का पालन नहीं हुआ है । अत: बीमा पत्रों की संख्या का न लिखा जाना मामले की सत्यता परकोई विपरीत प्रभाव नही डालता है । पुनश्च बीमा पत्रों को शाखा डाकघर थैले में खजान्ची तथा उप लेखा सहायक की उपस्थित में डालना अनिवार्य शर्त है । तथ्यों से ऐसा सिद्ध है कि यहशर्त भी पूरी हुई है । अतएव लेखा कार्यालय से उक्त बीमा पत्र का भेजा जाना सिद्ध होता है । इसी बिन्दु का दूसरा पक्ष जो अपीलार्थी ने उठाया है कि क्या वह बीमा परसौना डाकघर पहुँचा अथवा नही इस विषय में बैग के लेबल आदि यदि सुरक्षित होते तभी कुछ कहा जा सकता था किन्तु अपीलार्थी ने स्वयं उन्हे समाप्त कर दिया । अत: बीमा पत्र का पहुँचना भी सिद्ध ही माना जायेगा ।

§ग§ तीसरे बिन्दु पर अंकित त्रुटियों को अपीलार्थी ने महत्वहीन एवं साधारण त्रुटियाँ बताते हुये उनके लिये सेवा से निष्कासन के दण्ड को अनौचित्य पूर्ण बताया है । यहाँ केवल इतना कहना ही पर्याप्त होगा कि उक्त दण्ड केवल इन्ही त्रुटियों के लिये नही वरन् सभी आरोपों की गुरुता को दृष्टि में रख कर दिया गया है जो मेरी दृष्टि में भी उचित है ।

उपरोक्त विवेचना के आधार पर मैं प्रदत्त दण्ड में किसी भी हस्तक्षेप का औचित्य नहीं पाता हूँ ।

6· अतएव मैं, एतद्द्वारा, अपीलकर्ता की अपील अस्वीकार करता हूँ तथा अधीक्षक डाकघर गोण्डा मण्डल, गोण्डा के उपरोक्त ज्ञापन द्वारा प्रदत्त दण्ड की पुष्टि करता हूँ ।

§भानु प्रताप सिंह§
निदेशक डाक सेवायें
लखनऊ क्षेत्र, लखनऊ-226007

प्रतिलिपि:

1. सम्बन्धित कर्मचारी को द्वारा अधीक्षक डाकघर, गोण्डा
2-3· अधीक्षक डाकघर गोण्डा मण्डल गोण्डा ।
4-5· क्षेत्रीय कार्यालय की पत्रावली ।
6· अतिरिक्त ।

Photo
TRUE COPY
R. Tewari
Tewari Advo.
Dugg fd

V.C.Roy
जाँच अधिकारी
गोरखपुर-271001

-17-

सेवा में

Annexure A-3 अधीक्षक डाकघर गोण्डा
प्रखण्ड गोण्डा

पत्रांक जांच-दुर्गा प्रसाद/88 गोण्डा दिनांक 6-5-88

विषय:- श्री दुर्गा प्रसाद शाखा डाकपाल परसौना (Put-off duty) के विरुद्ध आ० ई० डी० एस० आचरण नियमावली के नियम 8 के अन्तर्गत जांच।

सन्दर्भ:- आप का पत्रांक एफ० आर० /10/0087 दि० 20-1-87

मुझे उक्त ज्ञापन के द्वारा श्री दुर्गा प्रसाद शाखा पोस्टमास्टर परसौना (Put-off duty) के विरुद्ध लगाए गये आरोपों की जांच करने के लिए जांच अधिकारी तथा श्री वी. वी. श्रीवास्तव को प्रस्तोता अधिकारी नियुक्त किया गया था। बाद में श्री डी. एन. तिवारी और फिर श्री एस. चन्द त्रिपाठी को प्रस्तोता अधिकारी नियुक्त किया गया। श्री दुर्गा प्रसाद ने अपने बचाव के लिए बचाव सहायक श्री आर. बी. चौधरी को नियुक्त किया।

मैंने उक्त जांच 6-10, 28-11-87, 1-2-88, 18-2-88, 16-3-88 एवं 31-3-88 को जांच की तारीखें निश्चित कर किया। श्री दुर्गा प्रसाद को दिनांक 31-3-88 को अपना बचाव बयान प्रखण्डीय कार्यालय में देना था परन्तु वे अथवा उनके बचाव सहायक उपस्थित नहीं हुए न कोई सूचना ही भेजा। दिनांक 25-3-88 के [illegible] पत्र द्वारा उन्हें सूचित किया गया कि दिनांक 30-3-88 तक अपना बचाव बयान प्रस्तोता द्वारा उन्हें और प्रस्तोता अधिकारी को बाद अवसर भी परन्तु दिनांक 7-4-88 तक उनके कोई [illegible] नहीं दिया अतः प्रस्तोता अधिकारी से (written brief) लिखित ब्रीफ प्राप्त कर [illegible] दिया गया तथा श्री दुर्गा प्रसाद को [illegible] तो दिनांक 18-4-88 को अपना लिखित ब्रीफ" (written brief) देने के लिए लिखा गया। श्री दुर्गा प्रसाद ने दिनांक 18-4-88 को लिख कर दिया कि चूंकि उनका बचाव बयान नहीं लिया गया है अतः उन्हें कोई लिखित ब्रीफ (written brief) नहीं देना है। श्री दुर्गा प्रसाद को अपना बचाव बयान दिनांक 21-3-88 से 7-4-88 तक तथा 7-4-88 से दिनांक 18-4-88 तक का समय दिया गया परन्तु उन्होंने इस जांच के प्रति उदासीनता दिखाया। जांच पूरा करने की जल्दी से [illegible] जांच रिपोर्ट उचित कार्यवाही हेतु भेजी जा रही है।

श्री दुर्गा प्रसाद शाखा डाकपाल परसौना के विरुद्ध आरोप लगाए गये हैं:-

1- दिनांक 1-11-86 को [illegible] वी.पी. 250/500 सहित तीन बीमा भेजा गया परन्तु उन्होंने इन बीमों को प्राप्त होना स्वीकार नहीं किया।

[illegible signature]

2. दिनांक 29.9.86 को बीजक संख्या 264/600 अन्य बीजकों सहित प्राप्त स्वीकार नहीं किया।

3. दिनांक 13.11.86 को आपने दैनिक लेखा पर दिनांक 13.11.86 को बीजक संख्या 517 के स्थान पर 345/- का प्राप्त होना लिखवाया।

4- दिनांक 10.11.86 को बीजक संख्या 290/500 प्राप्त होना स्वीकार नहीं किया। परन्तु इसके प्राप्त होने के सम्बन्ध में दैनिक लेखा पर कोई सूचना नहीं लिखवाई और न दिनांक 10.11.86 को सम्बन्धित आदि कार्यों को ही सूचित किया।

5. दिनांक 10.11.86 को आपने आपकी पत्नी का नाम बीजक संख्या 290/500 के इन्द्राज को अपने हाथ से काट दिया और उसे प्राप्त होना स्वीकार नहीं किया।

6. दिनांक 11.11.86 को धनादेश भुगतान मद में दैनिक लेखा में रु 160/ के स्थान पर रु 165 लिखवाया (रु 5/-) का दुर्विनियोग करने का प्रयास किया।

इन आरोपों को प्रमाणित करने हेतु प्रस्तुत अधिकारी ने निम्न अभिलेख और गवाहों को प्रस्तुत किया:-

अभिलेखों की सूची

प्रदर्श क्र-1	TR की प्राप्ति दिनांक	11-11-86	
" 2	बी ओ स्लिप दिनांक	10.11.86	(Carbon copy)
" 3	"	"	(Pencil copy)
" 4	बयान श्री हनुमान प्रसाद दिनांक	15.11.86	
" 5	"	16.11.86	
" 6	" राम नरेश दुबे	15.11.86	
" 7	"	16.11.86	
" 8	दुर्गा प्रसाद	15.11.86	
" 9	"	15.11.86	
" 10	डेली एकाउन्ट्स दि.	10.11.86	
" 11	"	11.11.86	
" 12	"	12.11.86	
" 13	"	13.11.86	
" 14	बी ओ स्लिप	11.11.86	(आदि)
" 15	"	11.11.86	[illegible]
" 16	ओटी न. 23	29.9.86	
" 17	" 14	30.9.86	
" 18	बयान दुर्गा प्रसाद	14.10.86	
" 19	SDI का रिपोर्ट	19.10.86	
" 20	दुर्गा प्रसाद का पत्र	दिनांक 11.11.86	
" 21	बी ओ स्लिप	दिनांक 11.11.86	
" 22	" "	11.11.86	
" 23	" "	13.11.86	
24	" 28		

गवाहों की सूची

1- श्री हनुमान प्रसाद बी.ओ. [illegible]
2 " राम नरेश दुबे [illegible]
3 " [illegible] अहमद [illegible]
4 " [illegible]
5- श्री [illegible] SDI (Central)

Durga [illegible]

श्री दुर्गा प्रसाद मालवी सहायक लेखापाल [illegible] लगाया गया प्रथम आरोप यह है कि दिनांक 10.11.86 को श्री उनके द्वारा भेजा गया [illegible] बीमा नं. 220/500 को बी.ओ. स्लिप पर दर्ज करने [illegible] अस्वीकार किया। इस आरोप को प्रमाणित करने के लिए प्रस्तोता अधिकारी ने प्रदर्श पु-1 से प्रदर्श पु-15 तथा प्रदर्श पु-20 से 24 तक के अभिलेख एवं गवाह सर्व श्री हनुमान प्रसाद शर्मा, [illegible] साबिर अहमद एवं श्री आर. के. तिवारी [illegible] डाकपाल (भ.ग.) [illegible] को प्रस्तुत किया।

श्री हनुमान प्रसाद बी.ओ. (स.ग्रे.) [illegible] ने अपने बयान दिनांक 15.2.88 में बताया कि प्रदर्श पु-2, 3, बी.ओ. स्लिप दिनांक 10.11.86 को अपने पर्यवेक्षण [illegible] तैयार किया। फिर पर बीमा नं. 220/500 के साथ बीमा दर्ज किया। फिर [illegible] उसी [illegible] बी.ओ. [illegible] [illegible] पर सील [illegible] था। मालवी सहायक द्वारा उसी दिन [illegible] डुप्लीकेट [illegible] बीमा [illegible] [illegible] बी.ओ. स्लिप (copy) प्रदर्श पु-3 से डुप्लीकेट प्रदर्श पु-10 से मिलान से ज्ञात हुआ कि बीमा नं. 220/500 का [illegible] नहीं दिखलाया गया है [illegible] इस [illegible] अनियमित किया तथा दिनांक 11.11.86 बी.ओ. स्लिप प्रदर्श पु-14, 15 में भी मालवी सहायक को [illegible] [illegible] [illegible] [illegible] मालवी सहायक के [illegible] पत्र प्रदर्श पु-20 [illegible] [illegible] स्वीकार नहीं किया। [illegible] प्रदर्श पु-1 [illegible] आरोप [illegible] [illegible] तथा [illegible] [illegible] प्रदर्श पु-22 [illegible] श्री [illegible] [illegible] [illegible] प्रदर्श पु-8 एवं 9 को भी स्वीकार किया [illegible] [illegible] भी [illegible] बताया कि प्रदर्श पु [illegible] बी.ओ. स्लिप [illegible] [illegible] बी.ओ. [illegible] प्रदर्श [illegible] [illegible] 'R' [illegible] बताया [illegible] प्रदर्श पु-2 [illegible] बीमा नं. 220/500 के [illegible] [illegible] [illegible] [illegible] [illegible] है [illegible] बताया। [illegible] प्रदर्श पु-23 की [illegible] [illegible] श्री [illegible] [illegible] [illegible] [illegible] [illegible] बयान दिनांक 16.3.88 को बताया कि प्रदर्श पु-23 दिनांक 10.11.86 की बी.ओ. स्लिप [illegible] Dugal

(1) – 20 – 30

जिस का बीमा भी श्री वर्मा के द्वारा सम्बन्धी जाँच अधिकारी दिनांक 1.11.06 को श्री इन्तजार अहमद ने 224 गांव को। बी.ओ. मलिक का जाँच करते उनके सभी बीमे की सूचना रिकार्ड इत्यादि का दिया है। उनके समक्ष ही बी.ओ. मलिक प्रदर्श-2 बीमा धारकों के बयान बैंक में [illegible] था बी.ओ. सब (रमाकान्त) आदि ने अपने स्तर से बीमा का [illegible] को बैंक [illegible] कर दिया था। श्रीमती को परसोना भी डाकघर आते पता चला कि बीमा संख्या 874 एवं 211 श्री डी.पांडे ने आ. आमानत में रिकार्ड गये हैं परन्तु बीमा सं. 290 [illegible] दिनांक [illegible] तीन आवाज में ही [illegible] है। इसका इन्द्राज नहीं किया गया। [illegible] प्रदर्श क्र. 6 एवं क्र. 7 में [illegible] भी उन्होंने स्वीकार किया है। जिस में भी उन्होंने बताया कि प्रदर्श क्र. 2 का [illegible] में [illegible] था। यह आवश्यकीयों बीमा सं. (उक्त) में जांच प्रस्तुत नहीं की। श्री डी.के. [illegible] उपअधीक्षक के आदेश दिनांक 16.3.00 से श्री ओ.पी. सक्सेना [illegible] द्वारा कोई भी गये [illegible] का अवलोकन किया।

श्री आर.के. तिवारी ने इस मामले की जाँच स्वयं किया था। उनका बयान दिनांक 18.2.08 को लिया गया। जिसमें उन्होंने बताया कि प्रदर्श क्र. 1 90/160/11.11.86 के अनुसार उक्त बीमा का जाँच श्री परसोना गये। बी.ओ. मलिक प्रदर्श क्र-2 की क्रम 2 का उक्त बीमा अंकित था। जिसे उन्होंने "not received", शाखा पोस्ट मास्टर के विरुद्ध इन्द्राज कर दिया था तथा टोटल 3 के आंकड़े कर '2' [illegible] लिख दिया था। परन्तु उस पर अंकित "Three" को "Two" नहीं किया। परन्तु इस [illegible] के [illegible] प्रदर्श क्र. 3 का कोई इंद्राज भी संशोधन नहीं था। परन्तु शाखा पोस्ट मास्टर परसोना को बीमा न मिलने के सम्बन्ध में कोई इन्द्राज नहीं नोट किया। सील, कार्ड, टोकन, बैग आदि भी प्राप्त नहीं किया और दिनांक 1.11.06 के डेली एकाउन्ट प्रदर्श क्र. 10 के द्वारा भी बीमा न मिलने के सम्बन्ध में कोई कोई सूचना भेजी। जिसे उन्होंने (सब डाकपाल) ने अपने प्रारम्भिक बयान प्रदर्श क्र. 8 में स्वीकार किया है। और जाँच में भी उक्त बीमे की कोई प्राप्ति नहीं मिली गई है। उक्त [illegible] से स्पष्ट है कि शाखा डाकपाल ने पाये दिनांक 1.11.06 को तीन बीमा प्राप्त किये गये परन्तु उनके 290/500 की इन्द्राज का आदेश Not received इन्द्राज कर दिया। क्योंकि उक्त बीमा नहीं मिला था तो उसे नहीं

गया

Dugaria

-2- (8)

स्वयं या दूसरों के माध्यम से या बी.ओ. डेली एकाउन्ट के माध्यम से भेजना चाहिए था। शाखा डाकपाल द्वारा ऐसा न करना उनकी लापरवाही को साबित करता है और यह प्रमाणित करता है कि उक्त बीमा उन्हीं के द्वारा जानबूझ कर गायब किया गया है।

दूसरा आरोप

दिनांक 21.9.06 को बीमा संख्या 264/600 अन्य बीमों के साथ प्राप्त करना स्वीकार न करना।

इस आरोप को प्रमाणित करने के लिए प्रस्तुतकर्ता अधिकारी ने ड.बी.-13 दिनांक 21.9.06 प्रदर्श क्र-16 प्रदर्श क्र-18 शाखा डाकपाल का बयान दिनांक 17.10.06 एवं मेल ओवरसीयर की रिपोर्ट तथा प्रदर्श क्र-19 डाकनिरीक्षक द्वारा शाखा डाकपाल को दी गई चेतावनी की छाया प्रति आलेख के रूप में प्रस्तुत किया है। तथा श्री [illegible] एवं श्री हरीशचन्द्र मेल ओवरसीयर को गवाह के रूप में प्रस्तुत किया है।

ड.बी. [illegible] 13 दिनांक 21.9.06 के द्वारा शा. डाकपाल [illegible] एवं डा.से. तथा [illegible] को उपरोक्त [illegible] ने स्वीकार किया कि अहमदाबाद बीमा क्र. 264/600 दिनांक 21.9.06 को शाखा डाकपाल को भेजा गया परन्तु शाखा डाकपाल ने इसे प्राप्त करना स्वीकार नहीं किया है। शाखा डाकपाल का बयान प्रदर्श क्र 18 दिनांक 14.10.06 को मेल ओवरसीयर ने लिया [illegible] कि उसने डा. से. ने स्वीकार किया कि बीमा क्र 264/600 बी.ओ. जर्नल में दर्ज किया परन्तु उस दिन के डेली एकाउन्ट में सम्मिलित करना भूल गया। इस पर शाखा डाकपाल को डा. नि. के आदेश पत्र संख्या [illegible] दिनांक 19.10.06 द्वारा कड़ी चेतावनी दिया। इस प्रकार शाखा डाकपाल के विरुद्ध लगाया गया यह आरोप पूर्णतया प्रमाणित है।

आरोप न. 3

तीसरा आरोप यह है कि [illegible] शाखा डाकपाल [illegible] ने दिनांक 13.11.06 को बीमा क्र. 517/1100 के स्थान पर बीमा क्र 345/1100 प्राप्त करना दिखाया।

शाखा डाकपाल ने डेली एकाउन्ट दिनांक 13.11.06 प्रदर्श क्र. 13 पर बीमा क्र. 517/1100 के स्थान पर 345/1100 आगमन में दिखाया है। [illegible] उपरोक्त [illegible] ने दिनांक 13.11.06 को [illegible] 20 दिनांक 13.11.06 [illegible] किया तथा [illegible] डाकघर [illegible] सभी [illegible] को [illegible] कर दिया। [illegible] शाखा डाकपाल [illegible] दुर्गा प्रसाद के आदेश [illegible] दिनांक 15.11.06 [illegible]

[illegible]

Dugata

-22- (बी)

... के माध्यम से या बी.ओ. डेली एकाउंट
के माध्यम से प्रीमियम जमा नहीं किया। शाखा डाकपाल द्वारा
ऐसा न करना उनके कर्तव्यों की अवहेलना को प्रदर्शित करता है
और यह प्रमाणित करता है कि उक्त बीमा राशि
के रूप में प्राप्त रकम का गबन किया गया है।

2 (दो) आरोप

दिनांक 29.7.06 को बीमा (रकम 264/600 अन्य
बीमों के प्रीमियम का गबन करना)

इस आरोप को प्रमाणित करने के लिए प्रस्तुतकर्ता
अधिकारी ने प्र.सा.-13 दिनांक 29.7.06 पृष्ठ सं. 16
प्रदर्श प्र.-10 शाखा डाकपाल का बयान दिनांक 17.10.06 [illegible]
[illegible] पृष्ठ सं. प्र.-19 [illegible]
शाखा डाकपाल [illegible] की गई
आरोप [illegible] प्रस्तुत किया है। [illegible]
[illegible]
आरोप [illegible] प्रस्तुत किया है।
इसी [illegible] 13 दिनांक 29.7.06 के द्वारा शा.
डाकपाल [illegible] उपरोक्त
[illegible] अंकित किया कि [illegible] बीमा
सं. 264/600 दिनांक 29.7.06 को शाखा डाकपाल को
[illegible] शाखा डाकपाल ने [illegible]
[illegible] किया है। शाखा डाकपाल का बयान
प्रदर्श प्र.-18 दिनांक 14.11.06 को [illegible]
[illegible] किया
कि [illegible] 264/600 की [illegible] दिया
[illegible] बी.ओ. डेली एकाउंट में [illegible]
[illegible] शाखा डाकपाल को [illegible]
[illegible] दिनांक 19.10.06 [illegible]
[illegible] शाखा डाकपाल
के [illegible] यह आरोप पूर्णतया प्रमाणित
है।

आरोप सं. 3

तीसरा आरोप यह है कि [illegible]
दिनांक 13.11.06 को बीमा [illegible] 5??/1100 [illegible]
345/1100 [illegible]

शाखा डाकपाल के [illegible] दिनांक 13.11.06
पृष्ठ सं. 13 पर बीमा [illegible] 5??/1100 [illegible] 345/1100
[illegible] है। [illegible] आरोप
के दिनांक 13.11.06 को [illegible] 20 [illegible] 13.11.06 [illegible]
[illegible]
को [illegible]
[illegible]

क्र. 9 द्वारा अपनी गलती को स्वीकार किया है तथा भविष्य में ऐसी गलती न करने का आश्वासन दिया। यह आरोप अभिलेखों द्वारा ही प्रमाणित हो जाता है

आरोप नं. 4

चौथा आरोप यह है कि शाखा डाकपाल ने बीमा सं. 210/500 को प्राप्त होना स्वीकार नहीं किया तथा डेली एकाउंट दिनांक 10.11.06 के द्वारा कोई सूचना भी दिया कि बीमा नं. 210/500 नहीं प्राप्त हुआ है।

प्रदर्श क्र. 2, 3. पर उक्त बीमा प्राप्त दर्ज है। परन्तु शाखा डाकपाल ने दिनांक 10.11.06 के डेली एकाउंट प्रदर्श क्र.-10 पर कभी भी आगमन को नहीं दिखाया तथा इसके न प्राप्त होने सम्बन्धी कोई सूचना भी दिया। बीमा आदि सुरक्षित भी नहीं रखा। अपने बयान दिनांक 15.11.06 प्रदर्श क्र. 8 द्वारा बताया कि बीमा न प्राप्त होने सम्बन्धी सूचना दिनांक 11-11-06 को रजिस्टर्ड पत्र द्वारा दिया उप अधीक्षक पर इस ओर ध्यान की जानकारी नहीं थी। अतः शाखा डाकपाल को डाक खोलने पर बीमा नहीं मिला तो वे स्वयं या अपने [illegible] द्वारा अथवा डेली एकाउंट दिनांक 10.11.06 द्वारा उपडाकपाल को सूचित कर सकते थे क्योंकि उस दिन शाखा डाकपाल के यहां डाक 13.30 बजे प्राप्त हो गई थी। उपर्युक्त आरोपित द्वारा भेजे गये पत्र, जो अधीक्षक दिनांक 11.11.06 द्वारा भेजी सूचना आदि पर उसके रजिस्ट्री भेजना यह दिखाने का प्रयास किया कि बीमा [illegible] शाखा डाकघर के [illegible] शाखा डाकपाल द्वारा भी गई [illegible] डेली एकाउंट से स्पष्ट है। प्रथम ही दिन का बीमा न मिलना और तत्काल कोई सूचना नहीं देना शाखा डाकपाल के आचरण को संदेहास्पद बनाता है। भी और एक एकाउंट लिखित सूचनाएं आदि पर बयानों तथा डाक निरीक्षक द्वारा किए गए जांच से यह स्पष्ट है कि उक्त बीमा शाखा डाकघर को प्राप्त था और शाखा डाकपाल ने जानबूझकर [illegible] तथा [illegible] बीमा न मिलने सम्बन्धी कोई सूचना नहीं भेजा। शाखा डाकपाल के [illegible] रखा गया यह आरोप भी पूर्णतया प्रमाणित हो जाता है।

[illegible] (signature)

पांचवा आरोप

पांचवा आरोप यह है कि दिनांक 10-11-86 को जो वी.ओ. स्लिप शाखा डाकपाल पडरौना को भेजी गई उस पर बीमा संख्या 280/500 सहित तीन बीमा चढ़े थे तथा उस पर कोई कट-क्रास नहीं था। परन्तु शाखा डाकपाल 280/500 वाले बीमा के इन्द्राज को वी.ओ. स्लिप पर काट कर उक्त बीमा प्राप्त होना नहीं लिख दिया।

प्रदर्श क 2 वी.ओ. स्लिप, प्रदर्श क 3 वी.ओ. स्लिप आदि इस आरोप पर [illegible] के लिए, [illegible] लाल स्याही का प्रयोग किया है) तथा आपके हस्ताक्षर बनाए हैं। प्रदर्श क 2 वी.ओ. स्लिप पर चढ़े बीमा सं 280/500 के इन्द्राज को काटने हेतु जो लाल स्याही का प्रयोग किया गया है वह शाखा डाकपाल द्वारा प्रयुक्त स्याही से मिलता है। शाखा डाकपाल के इन्द्राज को काट कर उसके सामने "Not Received" लिख दिया गया तथा तीन के स्थान पर '2' बना दिया। शाखा डाकपाल को प्राप्त वी.ओ. स्लिप पर अगर बीमा नहीं मिला था तो कोई कटिंग नहीं करना चाहिए था बल्कि उन्हें तत्काल फोन माध्यम से उपडाकपाल अधीक्षक एवं अन्य अधिकारियों को सूचित करना चाहिए था। इसके विपरीत शाखा डाकपाल ने दिनांक 10.11.86 को शाखा की डेली एकाउन्ट प्रदर्श क 10 पर किसी प्रकार का बीमा न प्राप्त होने सम्बन्धी टिप्पणी नहीं लिखा है। इस अभिलेख पर उक्त बीमा प्राप्त होने, न प्राप्त होने, विलम्बित होने या असामान्य रूप से सम्बन्धी टिप्पणी नियमानुसार लिखना आवश्यक था। यह नियमानुकूल कार्य न करके शाखा डाकपाल ने अपने दायित्व [illegible] वी.ओ. स्लिप पर कटिंग करके बीमा "Not received" लिखकर अपनी जिम्मेदारी की इति श्री अपने आप समझ लिया। तथा लेखा कार्यालय [illegible] करने पर दिनांक 11.11.86 को पंजीकृत पत्र द्वारा सूचना देना बताया। शाखा डाकपाल द्वारा निर्धारित नियमों का उल्लंघन किये जाने के कारण बीमा 280/500 की रकम की हानि हुई। [illegible] द्वारा की गई प्रारम्भिक जांच [illegible] से भी यह प्रमाणित है कि शाखा डाकपाल ने अभिलेखों में हेराफेरी करके बीमा गायब कर दिया है। शाखा डाकपाल के विरुद्ध लगाया गया यह भी आरोप पूर्णतया प्रमाणित है।

Dugal

छठा आरोप

शाखा डाकपाल परसौना के विरुद्ध छठा आरोप यह है कि उन्होंने दिनांक 11-11-86 को सि. डि. 160/ के जमाकर्ता का विवरण [illegible] डेली एकाउंट में [illegible] 165/ दिखाया [illegible] पूर्वनियोजित ढंग से [illegible]।

शाखा डाकपाल के विरुद्ध लगाया गया यह आरोप प्रदर्श पु-11 डेली एकाउंट दिनांक 11-11-86 पर आधारित है। शाखा डाकपाल ने [illegible] 1164/10 कुल रु. 160 का विवरण दिखाया है / [illegible] 4543/1501 [illegible] 165/ दिखाया [illegible] आवश्यक [illegible] और उसी के आधार Detail [illegible] Balance भी दिखाया। शाखा डाकपाल की यह गलती [illegible]। इस तरह शाखा डाकपाल के विरुद्ध लगाया गया यह आरोप भी प्रमाणित है।

निष्कर्ष

उपरोक्त विस्तृत विवेचन से यह सिद्ध होता है कि श्री दुर्गा प्रसाद शाखा डाकपाल परसौना के विरुद्ध लगाए गए सभी आरोप प्रमाणित हैं तथा श्री दुर्गा प्रसाद ने शाखा डाकघर नियमावली के नियम 32, 54, 174, 171 तथा 164 का उल्लंघन एवं [illegible] डाक-तार विभाग अतिरिक्त विभागीय (आचरण एवं सेवा) नियमावली 1964 के नियम 17 का उल्लंघन किया।

सभी आवश्यक कागजात आदि आदेश

कार्यवाही हेतु [illegible]

[illegible]

TRUE COPY

(R. K. Tewari, Advo.)

Durga Pd

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Before The Central Administrative Tribunal, Allahabad.

O.A. Regn. No. Of 1989

Durga Prasad Versus Union Of India & Others

Annexure ([illegible])

Extract Rule 159 from Branch Office Rules —

159. Entries To Be Made On The Receipt Side Of The Journal.- The Nos. and other Particulars of all the V.P. & Insured Articles of the letter & parcel mails received for Delivery, Money Orders or IMO Receipts and S.B. warrants (S.B.7) received for payment and Indian Postal Orders received for encashment in the B.O. Slip (P.A.-4) from the A/C office, should be copied on the receipt side of the Journal (P.A.-5). A lump entry should also be made on the receipt side of the Journal showing the total No. of unregistered Parcels received for Delivery. If redirection fee is due on any such parcel, the particulars of the Parcel together with the amount of the redirection fee should also be entered on the receipt side. The particulars of all unclassified receipts should also be entered on the receipt side of the Journal.

Extract Rule 17 of EDA (C&S) Rules 1964.

17. General :

Every employee shall at all times maintain absolute integrity and devotion to duty.

TRUE ~~COPY~~ Extract

R. Tewari

(R. [illegible] Tewari [illegible])

Durga Pd

Annexure A-5

To,

The Director Postal Services,
Lucknow Region,
LUCKNOW

Sub: Appeal against the order of the Supdt. Post Offices Gonda imposing the penalty of removal from service vide Memo. LR-10/86-87 dated 16.5.88 on Durga Prasad B.P.M. Parsauna Distt. Gonda (copy enclosed as annexure (A).

Sir,

The above n[illegible] Durga Prasad ex. B.P.M. Parsauna Gonda begs to submit as under;-

Facts of the case in brief are that the appellant was appointed as Branch Postmaster Parsauna in October 1985 Shri R.K. Tewari now office supervisor S.S. Post Faizabad was then Sub Divisional Inspector Post Offices Gonda (Central). He was biased and prejudiced for the reasons that appellant could not yield to his illegal demands.

2. That on 10.11.86 when the B.O bags was opened the entry of insured letter no. 2?0 for Rs. 500/- was found scored out with red ink. Two other insured letters entered were received. The appellant was a new man. He did not preserve the bag, cord and seal for the reasons that entry was scored out.

3. That the appellant made entries of the other two insured letters in B.O Journal and showed it in deposit in B.O. journal and B.O. daily A/C. It is submitted that the mails were received at 13.30 hours and despatched after 1/2 hours.

4. That the appellant being new did not make entry of non receipt of insured letter though entry was scored-ed out. The appellant did not know that even in these

Durga Pd

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2..

when there is correction or scoring out entry the irregularity is to be noted in error book .

5. That the appellant after despatching the mails and giving delivery to EDDA and closing the account went to Utraula Post Office and enquired about the scoring out of entry on 10.11.86. The appellant was told that in the original B.O. slip the entry was not scored out. The appellant was not afforded opportunity to produce evidence to prove above fact.

6. That the appellant thereafter came to Post Office Parsauna and noted the fact of non receipt of insured letter in B.O. slip and other relevant records and submitted report to higher authorities viz. S.D.I. and S.Post Gonda [illegible].

7. That though the receipt of said report is admitted but the same has not been produced before enquiry officer.

8. That the appellant came to know thereafter that conspiracy was hatched by S/S R.K.Tewari S.D.I. and his favourites S/S Hanuman Pd.Sub A/C Clerk and Ram Naresh Dube to make out case to get the appellant put off duty and thereafter removed to make room for new appointment of B.P.M. for self gain .

9. That the enquiries were made by Shri R.K.Tewari the then S.D.I.and the appellant was put off duty vide memo.dated 19.11.86 (copy enclosed as annexure (8).

10. That thereafter chargesheet was issued under rule 8 of EDA Conduct Rules 1964 vide memo.of even no.27.3.87 after more than 4months in utter disregard of D.G's order no.13 below rule 9 of ED Conduct rules

Durgaprasad

(copy enclosed as annexure (C).

11.. That the appellant had submitted an application to D.P.S.Lucknow regarding fabrication of cases by the S.D.I.Gonda (Central) Shri R.K.Tewari (copy attached as annexure (D).

12. That Shri V.C.Raj A.S.P.(H.Q.) Gonda was appointed as enquiry officer.

13. That during cross examination Shri Hanuman Prasad admitted fact that Treasurer used to write the number of insured letter but on B.O slip dated 10.11.86 sent to Parsauna the number of insured letter was not written. This omission was not without motive. The motive was that the appellant would not challenge the non receipt of insured letter immediately as entry was scored out and treasurer had not written the number of insured letter sent. This proves the conspiracy (copy attached as annexure E).

14... That Shri Ram Narayan Dube the then treasurer has stated that on the carbon copy the total of insured letter sent has not been written but on pencil copy the total no. of insured has been written. It be noted that SDO A/C Clerk has deposed that even on original (Mool) the treasurer had not written the total no. of insured letter sent while the treasurer says that he had ~~not~~ written. This veracity proves the conspiracy (copy of statement is attached as annexure F).

15. That the statement of Shri R.K Tewari before the E.O. will itself show that he did not make ~~entry~~ enquiry with intent and purpose to find out truth but with a view to find out ways and means to implicate the appellant (copy attached as annexure (G).

16. That on the close of case of prosecution the date

contd.on page 4......

Durgaba

for submission of defence was fixed for 21.3.88. The defence counsel sent intimation to E.O. that due to sudden death of his wife's brother in law at Lucknow the date be postponed (copy enclosed as annexure I)

17.. That thereafter no date for submission of defence was fixed. The enquiry officer intimated that defence statement be sent by registered post upto 30.3.88 vide letter dated 25.3.88 (copy attached as annexure J)

18.. That though this letter was written on 25.3.88 it was actually despatched on 2[illegible].3.88 as will be seen from the remarks written by defence Asstt. on letter (annexure (J). This letter was despatched to appellant on 28.3.88 and delivered on 2/4/88.

19.. That according to ~~[illegible]~~ sub rule 16 of rule 14 of the C.C.S. (C.C.A) rules 14 the date was to be fixed when the defence statement was to be submitted with assistance of defence Asstt. but no such date was fixed. The enquiry officer violated this provision in sub rule 16 of rule 14 C.C.S. (C.C.A) rules 1965.

20.. That without waiting for defence statement the enquiry officer closed the case of defence without affording opportunity for defence or examination of defence witnesses.

21.. That on 7.4.88 the enquiry officer wrote to appellant to submit brief. The brief of Presenting Officer was sent. No intimation was given to defence Asstt. nor any particular date was fixed. Thus opportunity of submission of brief with the assistance of def. Asst. was also denied in above manner (copy enclosed as annexure K).

contd. on page 5...........

Durga Pd.

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5..

22. That after making enquiry in above manner the enquiry officer submitted report. The disciplinary authority did not apply his mind that enquiry held was not ~~inform ity~~ in conformity with rule 14 of C.C.S. (C.C.A.) Rule and imposed the penalty of removal on appellant. The appellant submits appeal on the following grounds:

Grounds of appeal

1. Because the enquiry ~~officer~~ has been held in utter disregard of rules of natural justice and rule 14 of the C.C.S.(C.C.A) rules 1965.

The submission of the appellant is that departmental enquiry held against Govt.Servant is not empty formality. It is serious proceeding intended to give opportunity to Govt.servant to defend himself. This assumption finds support from the law laid down by their lordships of Supreme Court in case reported in A.I.R.1961 S.C.1070 and reproduced as case law No.2 below rule 14 of C.C.S.(C.C.A) rules 1965. In the case of State of Panjab Vs.Kemam Chand reported in A.I.R.1959 Punjab at page 402 reproduced as case law No.3 in appendix III (Constitution of India and article 311) their lordships of Punjab High Court has held that requirement of reasonable opportunity is fulfilled when the charged official is afforded an opportunity after all the evidence is produced and known to him to produce evidence and witnesses to refute it. In the present case the date for submission of defence statement was fixed for 21.3.88

The defence counsel sought adjournment due to death of his near relative(see annexure I)The enquiry officer thereafter did not fix date for submission of defence but intimated to appellant vide letter

Durga P

dated 25.3.88 (see annexure J) that defence statement be submitted by 30.3.88. This letter was despatched to appellant on 28.3.88 and was delivered on 2.4.88. It was despatched to defence Asstt. on 28.3.88 and delivered on 29.3.88. In fact the date should have been fixed for submission of defence with assistance of defence Asstt. This was not done. The enquiry officer is despatching intimation for submission of defence statement on 28.3.88 by regd.post. How could the defence statement submitted by 30.3.88 when intimation was delivered. The enquiry officer should have ascertained the date of delivery of letter dated 25.3.88 before closing the case of defence and asking the Presenting Officer to submit brief. Thus the valuable right of defence and examination of defence has been denied. The enquiry held is thus in violation of sub-rule 16(17) of rule 14 of C.C.S.(C.C.A) rules. The enquiry report is thus illegal rendering the punishment order as nullity.

2. Because the finding of enquiry officer and disciplinary authority is perverse and no reasonable person will arrive at such finding.

The submission of the appellant is that number of charges has been levelled and in fact these charges have been levelled as will be seen from article of charges. The question for determination is whether the insured letter no.290 for Rs.500/- was was received at Parsauna S.O. on 10.11.86 or not and whether it was despatched by account officer at all..

contd. on page 7........

Whether the entry of insured letter on carbon copy was scored out by account office or by appellant. In this connection prosecution examined S/S Hanuman Singh Sub A/C Clerk and Ram Naresh Dube treasurer. Both these witnesses have deposed that except on this B.O. slip (Ex.KA-2) containing entry of insured letter no. 290 Rs.500/- and thereafter scored on carbon copy the treasurer used to write number of insured letter sent in his own handwriting. The question arises why such entry was not made on B.O. slip dated 10.11.86 alone. This itself proves that entry was scored to misguide the appellant. This aspect has been overlooked by enquiry officer and disciplinary authority. The enquiry officer has based his finding on omission of the appellant to make entry of this event viz. non receipt of insured letter in error book and intimating it to higher authority on 10.11.86 itself. It is admitted that report was sent on 11.11.86. It is also said that no remark of non receipt was made on B.O. daily A/C sent on 10.11.86 Bag Card, label seal had not been presented. It is also said in finding that that ink used by treasurer on B.O. slip and scoring of entry does not resemble. On the above evidence it was held by enquiry officer that entry on carbon copy was scored out by appellant with intention to misappropriate the amount of insured letter. The submission of appellant is that when entry was scored the appellant was not certain that this insured letter was at all despatched by Account office. As such the appellant went to account office Utraula to find out why entry was scored. The appellant was denied opportunity to lead evidence in support of above fact viz. going to Utraula. When the appellant was told that entry in original (Pencil copy) has not been scored out the

Durga Pd.

appellant doubted that conspiracy was hatched up against him and he made entry in relevant record for non-receipt of insured letter and submitted report to higher authority. On these facts no reasonable person will say that there was any element of dishonesty or any ulterior motive to misappropriate the value of the insured letter. It is also not the case that insured letter contained more amount than for what was insured. Thus the finding of the enquiry officer and disciplinary authority that appellant did not maintain absolute integrity and devotion to duty is perverse and is based on misappreciation of evidence and facts .

The finding in regard to charge No. 4 is based on alleged omission of the appellant in not sending the report of non-receipt of insured letter through E.L.R., not noting the non receipt in error book, not sending report to higher authorities on 10.11.86. The enquiry officer failed to consider that how can S.P.M. Utraula send telegram on 11.11.86 regarding nonreceipt of insured letter just on next day in morning if appellant had not informed him about the non receipt of insured letter. The appellant has mentioned above that he had gone to Utraula on 10.11.86 after close of the office to ascertain why entry of aforesaid insured letter was scored out and then he came to know that on original copy (pencil) it is not scored . The enquiry officer has failed to consider that when always the treasurer used to write the number of insured letter despatched but on this slip the number of insured letter was not written . The treasurer has given explanation that he had written the number of insured letter was noted by him on pencil copy but due to removal of carbon the impression did not come on carbon copy send to S.O.

Parsaune

Durgaja

The Sub A/C Clerk Hanuman Pd. says that word three was written by him and Treasurer did not note the number of insured letter sent through always and on said date on other BO slip the treasurer had noted it. All these facts have been not considered and on alleged omission which was due to reasons that appellant was not certain whether the insured letter was sent because entry was scored out and at Utraula it came to light and thereafter appellant took action. The omissions will not prove that entry was scored out. Thus the finding of the enquiry officer and S.Post Gonda on Charge No.1,4 and 5 which relate to insured letter no.290 for Rs.500/- is perverse based on misappreciation of evidence and fact and ignoring the omission of treasurer in not noting the number of insured letter deliberately.

The charge No.2 is that the insured letter no.264 for Rs.600/- was sent on 29.9.86 was not acknowledged by showing it in deposit in daily a/c when other 3 insured letter were shown in deposit. The appellant had submitted that mails were received at 13.30 and despatched imme-diately. In rush of work the appellant failed to show it in deposit in daily A/C. It may be submitted that insured letter was entered in B.O. journal and was delivered to addressee and there is no complaint about. Will this omission amount to dishonesty impeaching the integrity of appellant. No reasonable person will say so. It is merely a clerical error. And will not amount to misconduct dishonesty and contravention to duty. The finding of E.O. and S.Post Gonda that appellant violated rule 17 of E.D.A. Conduct rules is thus perverse.

contd. on page 10................

Durgaka

The Charge No.3 is that on 13.11.86 the appellant showed wrong number of insured letter No.517 as 345 in deposit in L/A . The insured letter was delivered to the addressee intact and there is no complaint about it from any side. It was promptly delivered . In fact on this cover the number were noted and the appellant wrote said number. Anyway even if it be taken that wrong number was written it will not amount to any act of dishonesty or unfaithful discharge of duty and finding that the appellant did not maintain ~~devotion~~ absolute integrity and devotion to duty thereby violated rule 17 of E.D.Conduct rule is perverse even on admitted fact and no reasonable person will arrive at such finding.

The charge 6 is that on 11.11.86 the appellant sent paid voucher of two money orders for ₨.160/- but in account ₨.165/- was shown as paid and that appellant tried to make wrong use (misappropriation) of ₨.5/- . The submission of appellant is that the cash and stamp balances on counting tallied and the appellant was confident that this account was correct. In case of difference the vouchers would have been examined and mistake rectified. Can it be imagined that appellant charged ₨.165/- in m.o.payment when vouchers were for ₨.160/- with motive to misappropriate the amount of ₨.5/- No reasonable person will say so. Such mistakes are also done by sub offices also and the same is detected by the H.O. and rectified. The function of account office is same . How could it be alleged that appellant tried to misappropriate ₨.5/- when it is known that such mistake would be detected in account office . The appellant did not make any manipulation

Durgada

in voucher or accounts . For ... finding that appellant tried to ... that the appellant did ~~xxxx~~ an act ... non-devotion to duty is perverse and no reasonable person will say so.

The Supdt. Post Offices Gonda has mentioned in his finding that the official who after receipt of insured letter submits wrong report ... receipt and score out entries ... in the department. The Supdt. Post Offices ... this finding viz. scoring out entries of insured letter on carbon copy of B.O. slip Ex.Ka 2 on the ground that the red ink which was used in scoring entry was same which was used by appellant. Where appellant has used an who compared it and examined it to be same has not been mentioned by the disciplinary authority. Thus this finding is based on conjectures and surmises. The S.Post Gonda says ~~xxxxx~~ at para 3 that entries on Ex.KA 2 and KA 5 are same. Ka 2 is B.O.slip (Pencil copy) and Ex Ka 5 is statement of Hanuman Prasad dated 16.11.84. How can the entries be same. It is said that on both exhibits the red ink is same. It appears that Ex.KA 5 is wrongly typed and it shou... ... Ex.KA ... B.O.Slip. The red ink used by treasurer and not by Sub A/C clerk. The Sub A/C Cler... may score out entries with ~~his own pen~~ containing different ink and this can not be ground to hold that entries were not scored out by accountant ... . The disciplinary authority has failed to realise ... treasurer did not write number of insured ... B.O. slip of Parsauna although in other B.O. ... it was noted why this omission which was deliberately was not considered by the S.Post Gonda

contd. on page 12..........

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Had the treasurer noted the number of insured letter enclosed and put up by him in B.O. bag the whole issue viz. who had scored out entries would have become clear. The S.Post Gonda did not mention any evidence to prove that insured letter was received but appellant made out false case of non receipt. Had it been so the appellant would have completed all formalities and also obtain local witness proving its non receipt but no such action was taken. Even no entry of its non receipt was made on B.O.A/C Had appellant any dishonest motive he would have taken all the above action but he did not do so because the entry was scored and appellant went to account office to ascertain why entry was scored out and then he came to know that mischief was comitted to entangle the appellant and he therefore reported the matter to higher authorities. No reasonable person would arrive at such finding as has been mentioned by the S.Post Gonda. Thus the finding is perverse based on conjectures and surmises and both the disciplinary authority and enquiry officer have grossly misappreciated the evidence and facts and circumstances of the case.

5. Because the punishment imposed is not commensurate to the gravity of alleged offences.

The submission of the appellant is that the charge 2,3 and 6 are merely omission amounting to clerical error and punishment of removal is not at all justified. As regards charge No.1, 4 and 5 it relates to insured letter no.290 for Rs.500/- . The case of prose-cution is that insured letter was ~~xxxxxxxxxxxxxx~~ sent but not acknowledged by appellant. The case of defence(appellant) is that that the insured letter was not received and entry was score On said date insured letter No.6 74 for Rs.2000/- was also entered and appellant acknowledged it and showed it in deposit in B.O.daily A/C . The finding of S.Post Gonda and enquiry officer is based merely on suspicion and conjecture on the basis of alleged omission of appellant in not taking immediate action according to rule

Durga Bd

when insured letter was not received. They have ignored fact that at the time of opening of B.O.bag it was not certain that insured letter was actually despatched because entry was scored. They have also ignored the fact that had appellant any dishonesty motive he would taken immediate action. All these facts have not been examined. On such disputed question of fact the orders of removal is not sustainable. For omission punishment or recovery could be only imposed but neither it could be assumed that appellant made false report nor after receipt denied its receipt. Thus punishment of removal is not justified and is liable to be quashed.

Prayer

The appellant, therefore, prays that impugned order of the S.Post Gonda imposing the penalty of removal vide order dated 16.5.88 (Annexure A) be kindly set aside and the appellant be put back to duty with all service benefits.

Dated 9-7-88

Yours faithfully,

Copy to S.Post Gonda with the request that appeal be sent to D.P.S Lucknow along with relevant records for decision of appeal.

TRUE COPY
(R. K. Tiwari Advo.)

Durga Pd.
Durga Pd

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Annexure A-6 (1)

Statement of Shri Ram Naresh Dubey the then Treasurer Utraula at present P.A. Balrampur H.O.

मैं उतरौला डाकघर में दिनांक 13.6.86 से 30.9.87 तक खजांची के पद पर कार्य किया है। दिनांक 10.11.86 को भी इसी पद पर कार्यरत था। श्री हनुमान प्रसाद बी ओ एस पी असिस्टेंट उतरौला ने उतरौला डाकघर की बी ओ स्लिप तथा बैग जिसमें तीन बीमे थे खोले व सहायक जांच करके [illegible] अंकित हुए हैं [illegible] इस बी ओ स्लिप की आवश्यक [illegible] और कार्यवाही करने जाना। बी ओ स्लिप में चढ़े हुए तीनों बीमों का मिलान मैंने किया तथा उनके सामने संदर्भ हस्ताक्षर करके सत्यापित किया तत्पश्चात तीनों बीमों को [illegible] सब एकाउन्ट बाबू के समक्ष बी ओ स्लिप (सहित डाल दिया) तथा मैंने समस्त बी ओ बैग सब एकाउन्ट बाबू को अपने सील से बन्द किया तथा मेल क्लर्क को हस्तान्तरित कर दिया। बाद को जब पोस्टमास्टर की डाक आई तब उसे देखने पर यह पाया गया कि बी ओ डेली एकाउन्ट दिनांक 10.11.86 पर तीनों बीमों के बजाय दो ही बीमे 874 एवं 261 अमानत में दिखाए गये हैं तथा बीमा नं. 270 का कीमत दिखाया गया था अमानत में नहीं दिखाया गया था। इस पर बी ओ एस एकाउन्टेन्ट के ऊपर [illegible] जो सम्बन्धित अधिकारियों को भेजा गया। इस पर किसी [illegible] डाकघर से [illegible] के जांच किया। इस जांच के दौरान [illegible] लिया गया था जो प्रदर्श क-6 (क-7) है। इसमें लिखी सभी बातें सत्य हैं। इस बयान पर मेरे हस्ताक्षर हैं।

Cross Examination by defence counsel.

मैंने 10.11.86 के बी ओ स्लिप के आधार पर तीन बीमा रोजाना लिखा है परन्तु कार्यवाही में यह छूट गया है। इस का कारण यह था कि खजांची के पास कम था कुछ जमाकर्ता को निकासी देना था। पोस्टमास्टर ने कहा कि [illegible] को [illegible] करके काट दीजिए। इसी काट-छांट करने में कार्यवाही में तीन बीमा लिखना रह गया। मैं कार्यवाही और आधिकारिक [illegible] बीमों को [illegible] [illegible] 10.11.86 के पहले और बाद में भी लिखता था। सम्बन्धित बी ओ स्लिप में कार्यवाही में रजिस्टर्ड बीमा काटा गया है यह [illegible] नहीं काटा गया था, [illegible]

मेरे बीमों के स्तम्भ हस्ताक्षर मेरे ही हैं। [illegible] रोजाना के 3 के अंक का [illegible] है (2) [illegible]

राम नरेश दुबे

16-3-[illegible]

a. [illegible] 16/3

Durga [illegible] 16/3

Durga [illegible]

- 41 -

है। यह मेरे जानकारी के बाहर है। बी आर [illegible] [illegible] समय यह औपचारिकताएं नहीं की। [illegible] [illegible] पृष्ठ 3 पर [illegible] है - "Three intends" लिखा है) ———

Verbatim
16-3-88
रामनरेश दूबे

R.S. Tandon
16/3

Durgaprasad
16/3/88

16-3-88

Photo

TRUE COPY
R.K. Tewari
(R. K. Tewari Advo.

Durga Pd.

2. [illegible]

3. [illegible]

[illegible]

[illegible]

[illegible]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

[illegible]

[illegible] Respondents.

.....

[illegible]

Durga Prasad ..... Petitioner

Versus

Union of India & others ..... Respondents.

[illegible] of [illegible]

aged about [illegible] years son of

[illegible] posted

[illegible].

[illegible]

1. [illegible]

solemnly [illegible]

2. That the [illegible]

[illegible] such for fully acquainted with [illegible] the [illegible] to [illegible].

2. [illegible] apply, the following [illegible] in order to facilitate [illegible] in administering justice.

3. That [illegible] appointed as [illegible] (in short [illegible]) [illegible] should [illegible] over [illegible].

4. [illegible], several [illegible] with fraudulent intentions [illegible], a charge sheet under [illegible] of the [illegible] (Conduct & Service) Rules, 19[illegible].

5. [illegible] all charge sheet

the petitioner [illegible] charges which have been levelled [illegible], rightly was [illegible] the petitioner [illegible] of natural justice [illegible] the course of [illegible] after [illegible] the [illegible] of [illegible] which, the [illegible] against the petitioner [illegible] authority [illegible] dated [illegible].78 through which the petitioner [illegible] services. The petitioner [illegible] filed an appeal [illegible] dated [illegible] which [illegible] by the appellate authority.

6. [illegible] 6 of the petition [illegible] matters of record.

7. [illegible] para-4(i)&(ii) of the petition [illegible] matters of record, hence [illegible].

8. [illegible] that the contents of para-4(iii) of the petition are not correct as stated, hence

[illegible] in fact, the [illegible] correctly by the [illegible] Branch Office [illegible] acknowledge the [illegible] to misappropriate [illegible] also [illegible] [illegible] [illegible] the loss [illegible] not intimating the [illegible], the irregularities [illegible] in the loss of the [illegible], he is responsible [illegible] these [illegible]. Therefore, punishment of [illegible] punishment of [illegible] the official [illegible] are [illegible] irregularities [illegible].

9. [illegible] of the [illegible]

office is not [illegible] customary.

10. [illegible] (m) of the petition are [illegible] denied. It is further [illegible] tried to [illegible] theory of probability [illegible] is prepared [illegible] concern with the [illegible] the working. The [illegible] para. It is totally [illegible] would have been [illegible] connivance [illegible] actually [illegible] to the applicant and he himself has [illegible] the [illegible]

11. That the [illegible] petition [illegible] It is further not [illegible] of trouble [illegible] Premises [illegible] himself in [illegible]

(Conduct & Service) Rules, 1964.

16. [illegible] (iv) of the petition [illegible] It is [illegible] has violated [illegible] 37 of [illegible] violation of the above [illegible] of rule 37 [illegible] 1964. [illegible] of rule 37, [illegible] method of [illegible] officer.

17. [illegible] the petition [illegible] It is [illegible] further [illegible] in [illegible] should [illegible] therein. The petitioner [illegible] rule 37 of [illegible] according to his [illegible] number of [illegible] [illegible]

recorded by the petitioner but he failed even to [illegible] it [illegible] daily account of [illegible]

16. [illegible] (iii) of the petition [illegible] denied. It is further [illegible] rules have been [illegible] petitioner.

17. [illegible] of the petition [illegible] denied. It is further [illegible] 27 and [illegible] by [illegible] of [illegible]

18. [illegible] of petition [illegible] denied. It is further [illegible]

being [illegible]. [illegible] of [illegible] [illegible] is not [illegible], there is no [illegible] [illegible] of [illegible] and [illegible] [illegible] conditions.

19. [illegible] of [illegible] [illegible] [illegible] [illegible] [illegible]. [illegible]

20. [illegible] of the petition [illegible] submitted [illegible] was [illegible] him [illegible]

21. [illegible] period [illegible] of the [illegible] [illegible]

of [illegible] with

costs.

22. [illegible] 7 of the petition [illegible]

23. [illegible] of the petition [illegible] of the [illegible] the petition [illegible] of the [illegible]

24. [illegible] of the petition [illegible]

25. [illegible] do hereby verify [illegible] 1.2 and 3 of this [illegible] personal knowledge [illegible] 4 20, 21, 23 & 24 [illegible] 22 [illegible]

[illegible]

[illegible]

[illegible]

that [illegible]

himself [illegible]

[illegible]

[illegible]

[illegible] 21st

day of [illegible] 9.00 [illegible]

deponent [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Before The Central Administrative Tribunal, Allahabad

O.A. Regn. No.524 Of [illegible]

Durga Prasad versus Union Of India & Others

REJOINDER

Applicant's response contd to the Reply Affidavit filed by the learned Respondents is submitted below. The para requiring no comments have been omitted.

1) Contents of Para 6 of the Reply Affidavit (RA in brief hereafter) are denied. It is wrong to say that the irregularities were committed with fraudulent intentions. Had it been so the Resp. No.1 would never have awarded the punishment of Removal from service. He would have awarded the punishment of Dismissal from services.

2) Contents of para 7 are denied. The Inquiry had not been fair. When ever the Defence Assistant happened to be absent the Inquiry proceedings were never adjourned; on the other hand whenever the presenting officer happened to be absent the proceedings were invariably adjourned. Thus the Inquiry Officer (I/O in brief hereafter) acted with partiality.

So J/

DR

3) Contents of para 8 of the RA are denied. The applicant's contention is that because the cashier failed to write the number of Insured Letters despatched in words, some miscreant in transit must have abstracted the Insured letter. No Enquiry was made on the transit point. Availability of Red Ink used in correcting the total of Insured letters sent from 4 to 2 in sub post Office Utraula was not made. Due to these two major shortcomings in the Preliminary Enquiry it is baseless ~~is~~ to conclude that none but the applicant had misappropriated the value of the Insured letter. No proofs have been adduced to establish the presumption that the irregularities were committed intentionally by the applicant.

5) Contents of para 9 of the RA are denied. It i

definitly customary to write the total in words & figures of the total number of Insured Letters/Parcels despatched by the supervising Officer on both the copies of the D.O. Slip in red ink. If, however the Respondents say that this practice is not being followed as a matter of routine they will be requested to establish it before the court by producing 5 D.O.Slips of different offices of different dates in the year 19[illegible]7 viz the year of Incidence or of later dates. Moreover had it not been the custom the cashier would never have accepted this as his omission before the I/O

4) Contents of Para 10 are emphatically denied. The Respondents have failed to deny emphatically the fact that they failed to make any enquiry from the staff involved in transit. They also did not make any enquiry about the availability of the red ink in the Account Office at Utraula with which the total of Insured Letters was altered from 3 to 2. Thus the so being two major short-comings in the preliminary inquiry itself the whole Disciplinary Proceeding is not maintainable.

5) Contents of Para 11 are denied as they are quite illogical. The bag closed by Utraula Sub Post Office for Padrauna D.O. must necessarily have been carried by mail agency from Utraula to Padrauna. Thus it is wrong to say that there was no transit between Utraula & Padrauna unless the rule [illegible] prescribed conveyance of the said bag by the Branch Postmaster Padrauna himself. But it was not prescribed.

6) Contents of para 12 of the RA are denied. To write the total no. of Insured articles being despatched in words and figure on both the copies of D.O. Slip by the supervising officer is a deep rooted tradition obtaining all over India and due to this tradition the cashier admitted before the I/O that he had failed to write the total no. of Insured Letters despatched in words on the carbon copy of the D.O.Slip.

7) Contents of Para 13 of the RA are denied, as they are quite illogical. The applicant had stated in para 4(viii)

Rustam

of his plaint that he was charged for his failure to observe the provisions of Rule 269 of P.O. Rules the I/O has given in his findings that the applicant in addition to Rule 269 of P.O. Rules has also violated the provisions of Rules 57 & 54 ibid. The I/O had no jurisdiction to give his opinion about the said two rules viz. 57 & 54. Thus the I/O having acted beyond his jurisdiction his Report is not maintainable.

8) Contents of para 14 are not admitted. The applicant according to the Memo. of charges was never charged for having violated the provisions of Rules 57 & 54 of P.O. Rules Thus to hold him liable for violating these rules too is to act beyond jurisdiction.

9) Contents of Para15 of WS are denied. No copy of P.O. Rules in Hindi was ever supplied to the applicant. He is almost sure even today such a copy must not have been supplied to Parasuma Branch Post Office.

10) Contents of Para 16 are denied as its not a logical reply to para 4(xi) of the Petition.

11) Contents of Para 17 are denied. The applicant, as stated above in Para 8 of this Rejoinder, the applicant was never charged for having violated the provisions of Rules 57 & 54 of P.O. Rules. The appellate rather by while narrating in brief the charge levied against the applicant had himself added violation of Rules 57 & 54 of P.O. Rules in order to justify the award of punishment of Removal from Service.

12) Contents of Para 18 of the WS are denied. There does exist a tradition of writing the total no. of Insured Letters/Parcels despatched to a P.O. in words and figures in red ink by the supervising Officer. To establish non existence of such a tradition the Respondents as requested in para 9 of this Rejoinder may produce before the court P.O. Slips for 5 different dates.

Ru Ihuur

13) Contents of Para 19 are denied. The respondents have wilfully omitted to answer the allegation made in Para 4(xii) (d) of the Plaint [illegible] the case stands established. However in reply to the allegation made in para 4(xii) (c) of the plaint the respondents have stated in this para in the last sentence "Hence a decision had to be arrived at that the Insured Letter was misplaced by the Petitioner" against this view of the appellate authority the order of punishment of Removal from service is never justified. The misplacement of an Insured Letter does not amount to any moral turpitude.

14) Contents of Para 20 are denied; as the conclusion drawn in this para by the learned respondents does not correspond to [illegible] their averments in the earlier paras of the W.S.

15) Contents of Para 23 of the W.S. are denied; as the respondents have miserably failed to controvert any of the allegations made by the applicant, hence the applicant is fully entitled to get the reliefs claimed for.

In Verification

I, Durga Prasad, the applicant do hereby verify that the contents of paras 1 to 15 above are true to the best of my knowledge & belief. Nothing material has been suppressed.

Durga Pd.

Dated : 20-1-1991. Deponent

(R.K. [illegible])
Advocate for the Applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH : LUCKNOW
Opp. Residency, Gandhi Bhawan, Lucknow.

1346 to 1347
27/5
Dated :

..... T.A. 121/92 T.L
in
REGISTRATION NO. 524/89 OF 199

Durga Prasad ..... Applicant

VERSUS

UOI & others ..... Respondents

R. K. Tewari, Adv. 154 - Purshottam Nagar, ...abad, Allahabad.

N. C. Sinha, Adv. C.A.T., 23-A, Thornhill Road, Allahabad

Please take notice that the applicant above named has ... application a copy of ... whereof is ... hereto which has been registred in this Tribunal and ... fixed 27th day of July, 92. for hearing

If no appearance is made on your behalf, your pleader or by some one duly authorised to Act and plead on your behalf in the said application, it will be heard and decided in your absence. Given under my hand and the seal of the Tribunal this 25th day of May, 1992.

FOR DEPUTY REGISTRAR.
C/C

To,

TheVice Chairman
C.A.T.Allahabad

Sir,

My O.A.Regn. No. 524/89 Durga Prasad vs. U.O.I. & Others is pending for final disposal in your Hon'ble Tribunal since long. It is learnt that the abovementioned case is being ransferred to C.A.T.Lucknow. Being dismissed from service and having no source of earning at my Home Tow. I have shifted myself to Varanasi and am residing with my nearest relation ShriArvind Pal P.A. HPO Varanasi.

PRAYER

As Varanasi lies in the jurisdiction of C.A.T. Allahabad it is prayed that my case may not be transferred to C.A.T.Lucknow. It will cause great hardship to me.

Yours faithfully,

Durga Pd

(Durga Prasad)

Dt. 24-1-1992

R.K.Tewari

R. K. TEWARI
Advocate
154, Purshottam Naga
(Khuldabad)
Allahabad-16

R. K. TEWARI
Advocate
154, Pursho
(Khul
Allah

Submitted before Hon'ble V.C. for his lordship's kind orders

Dy. ...

24/1 Prayer rejected by Hon'ble V.C. dt. 20/7/92

2/1/2

Registered A/D

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
23-A Thornhill Road, Allahabad-211 001

****

(Registration No. 524 of 1989)

No.CAT/Alld/Jud/ Dated the :

Durga Prasad

Applicant's

Versus

U.O.I. & Others.

Respondent's

(1) Supdt. ~~Posts, Gonda~~.
(2) Director Postal Services, Lucknow.
(3) Union of India, through Secy. of Communications. New Delhi.

Please ~~take notice that the applicant~~ above named has presented an application a copy whereof is enclosed herewith which has been registered in this Tribunal ~~and has~~ fixed ____ day of Jul 1989. For ____.

If, no appearance is made on your behalf, your pleader or by some one duly authorised to Act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this ____ day of July 1989.

dinesh/

FOR DEPUTY REGISTRAR(JUDICIAL)