

(See rule 114)

OA/~~TA~~/~~RA~~/~~CP~~/~~MA~~/~~PT~~ 216.....of 2090

Versus

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Certified that the file is complete in all respects.

Bf copies would not be destroyed

Signature of S.O.

Signature of Deal. Hand

Central Administrative Tribunal
Lucknow Bench

INDEX SHEET

Cause Title On 21/1/93 of 1993

Name of the Parties Sh. V. K. Sharma Applicant

Versus

State of U.P. Respondents.

Part A.E.C.

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CA / 12 A

(A)

9/7/90

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 216 of 1989

APPLICANT(S) V. RAM VERMA

RESPONDENT(S) C. C. L.

<u>Particulars to be examined</u>	<u>Endorsement as to result of examination</u>
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 ?	Yes
3. a) Is the appeal in time ?	Yes
b) If not, by how many days it is beyond time?	
c) Was 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 S.D./Postal Order for Rs.50/-	Yes
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/referred 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 page up done properly ?	Yes
9. Have the chronological details of representation made and the outcome of such representation 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

<u>Particulars to be Examined</u>	<u>Endorsement as to result of examination</u>
11. Are the application/duplicate copy/spare copies signed?	Y
12. Are extra copies of the application with Annexures filed?	Y
a) Identical with the Original?	
b) Defective?	
c) Wanting in Annexures	
Nos. _____ pages Nos _____?	
13. Are the file size envelopes bearing full addresses of the respondents torn filed?	NO
14. Are the given address the registered address?	Y
15. Do the names of the parties stated in the copies tally with those indicated in the application?	Y
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true?	NA
17. Are the facts of the case mentioned in item no. 6 of the application?	Y
a) Concise?	
b) Under distinct heads?	
c) Numbered consecutively?	
d) Typed in double space on one side of the paper?	
18. Have the particulars for interim order prayed for indicated with reasons?	Y
19. Whether all the remedies have been exhausted.	Y

Final

25.7.1990

Hr Justice K. Nath, V.C.
Hon. Mr. K. Obayya, A.M.

Admit. Issue notice. Counter
 may be filed within 4 weeks, rejoinder within
 2 weeks thereafter. List before D.R. on
 19.9.1990 for fixing a date. Prayer for
 interim relief is rejected.

Sd/-
 A.M.

Sd/-
 V.C.

rm/

or
 notice issued
 on
 1-8-90
 (10/9)

20/9/90

Hon. Mr. Justice K. Nath, V.C.
Hon. Mr. K. Obayya, A.M.

5 m m. duty for the
 applicant. Counter has not
 been filed on behalf of the
 respondent's non appearance
 has been made today.
 The case may be
 listed for ex parte final
 hearing on 22/11/90.

19.9.90. Ld. Counsel
 of the applicant.
 in presence. But
 C.P. is absent -
~~not. fil. any~~ he died
 not. fil. any
 Counter so far.
 Inc. up on 28.9.90
 taken R 19.5
 2

OR
 S. 50

L
 26/9.

Am.

R
 V.C.

OR
 Notices were issued
 on 18.9.90
 by Mr. Justice K. Nath, V.C.
 NO CH filed.
 S.F. 7
 L
 20/11

22.11.90

Hon. Mr. Justice K. Nath, V.C.
 Hon. Mr. M.M. Singh - AM

On account of the death of Sri P.C. Srikant
 whose promotion is likely to be made prayer for
 adjournment is made on behalf of Advocate
 list for hearing on 14.2.91.

M M
 AM

VC

AM 11.2.1
 7/12

OA 216/90



15592

Hon. Mr. A B Gorthi AM

Hon. Mr. S N. Prasad JM

On the request of
learned counsel for the applicant.
Case is adjourned to 27.5.92.

JM

AM

PA filed

RA - none
SFM.
26/5

27.5.92 Case adjourned only on
11.8.92

more.

11.8.92

No sitting of D.M. on
23.9.92

23.9.92

No sitting of D.M.
only 10.11.92

No sitting

R.A. has been

filed all today.

S. F. C.

11/11/92

Suppl. RA has
been filed.

S. F. C.

26/11/92

18/11/92

Hon. Mr. S N. Prasad, JM

Case called out.

Shri M Dubey, L.C. for the applicant and
Shri D. Chaudhary L.C. for the respondents
are present.

Supplementary Rejoinder in reply to the
supplementary counter has been filed
by the ~~respondents~~ and a copy thereof
has been received by the counsel for the
respondents.

List this case for hearing and disposal
on 27/11/92

CMC

JM

217 - No. 216/90(2)

27/11/92 Hm. Mr. S N. Prasad, J. M.
Learned Counsel for the
respondents ~~is~~ is present.
Counsel for the applicant
seeks adjournment on the
ground of illness. List this
case on 30/11/92 for
hearing on admission.

~~AFM~~

J.M.

20.11.92

No Sing. & m-adjom to
4.1.93

C.F.

S.F.A.

30/12/92

4.1.93

Hon. Justice V.C. Srinivasan - vc.
Hon. Mr. J. Chagla - Jm

Putab Am 4.1.93 for
hearing.

C.F.
S.F.H.

Jm

12

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

Original Application No. 216 of 1990

Vikram Verma

Applicant

versus

Union of India & others

Respondents.

Shri B. Soloman Counsel for Applicant.

Dr. D. Chandra Counsel for Respondents.

Coram:

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

Hon. Mr. K. Obayya, Adm. Member

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

Against the punishment imposing the recovery of Rs 8250.00 vide order dated 23.4.1989 and the appellate order dated 30.11.89, the applicant has approached the Tribunal.

2. The applicant was working as Clerk and was served with a charge sheet under rule 16 of the CCS (CCA) Rules, 1965 and the charge against him was that the applicant without intervention of the H.O., pasted specimen signature of the depositor in the office specimen signature book and subsequently allowed final withdrawal of Rs 22,375.50 from the aforesaid account on the strength of the specimen signature of the depositor irregularly kept on record in the aforesaid manner and later on it was known that the withdrawal was made by some unknown person resulting in the loss of Rs 30775.50

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In the second charge it was alleged that the applicant in similar fashion opened on transfer Kheri H.O. joint SB A/c No. 2481732 without intervention of H.O. and on 7.9.87 withdrawal of Rs 2000/- from the account so transferred by obtaining fresh specimen signatures causing loss of Rs 2000- to the department. The applicant submitted reply. The enquiry proceeded and in the enquiry he was held guilty and punishment was awarded. He filed appeal which was dismissed.

3. The respondents have stated that it was after the authority was convinced that the applicant was responsible and the applicant cannot escape the responsibility and that is why the apportioning of liability of this amount on him. According to the respondents, they came to the conclusion that in view of the fact that the applicant pasted specimen signature and without instructions from transferring post office with regard to the specimen signature of the depositor, the withdrawals should have been allowed after proper identification of the depositor.

4. The learned counsel for the applicant strongly contended that in this case various persons were involved and these persons should have been proceeded against together. Undoubtedly, on various levels, certain other persons were involved and every one was responsible for his own action and it was not necessary that the enquiry should have been proceeded against each and every one. The learned counsel for the applicant then contended

that in view of the provisions of law, liability of the applicant should have been fixed only for 1/4th of the amount. There is clear statement by the respondents that the apportioning was made and that is why liability has been fixed. There is no challenge by the applicant even in the memo of appeal. There is no ground for interference in this case and accordingly, the application is dismissed. No order as to costs.


Adm. Member.


Vice Chairman.

Shakeel/-

Lucknow: Dated 7.1.93.

भारतीय डाक विभाग

कार्यालय प्रदीपक डाकघर, खीरी मण्डल, खीरी-262701

डाक संख्या-एफ-5/87-88/डिस-7

दिनांक, खीरी, 23.4.1989

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श्री विक्रम वर्मा डाक सहायक खीरी मुख्य डाकघर को केन्द्रीय सिविल सेवा वर्गीकरण, नियंत्रण और अपील नियमावली 1964 के नियम 16 के अन्तर्गत अवधार अवकाश कदाचार के लालचों का एक विवरण, इस कार्यालय के डाक संख्या सम दिनांक 1.3.89 द्वारा दिया गया था जो उन्हें दिनांक 2.3.89 को, प्राप्त हुआ। उस पर लगाये लालचों का विवरण निम्न है:-

यह कि उक्त श्री विक्रम वर्मा ने दिनांक 27.2.87, 15.6.87, 31.8.87, 7.9.87 की डाउन्टर डाक सहायक बचत बैंक पलिया के बतौर कार्य करते हुए निम्न गम्भीर भ्रष्टियों को करके विभागीय नियमों का उल्लंघन किया।

1. [क] श्री 0 गो 0 नाव 5 साला टीडी खाता संख्या 2126 की पासबुक व अन्तरण का आवेदन पत्र एसबी-10/बी, गोला मोकरन नाथ उप डाकघर से पलिया उप डाकघर को अन्तरण हेतु दिनांक 27.2.87 को प्राप्त की। अन्तरण हेतु खीरी मुख्य डाकघर भेजने से पूर्व ही पलिया उप डाकघर में 5 साला टीडी खाता सं 125818 के अन्तर्गत लेजर में खोल लिया तथा एसबी-10/बी में भरा खाता संख्या दर्ज किया। जमाकर्ता के समूचा हस्ताक्षर पासबुक भेजते समय ही लेकर अपने समूचा पुरतक में चिपका लिए। ऐसा करके उन्होंने डाकतार नियम पुरतक खण्ड-6 भाग-2 के नियम 442 में दिये गये प्रावधानों का उल्लंघन किया।

2. [ख] दिनांक 15.6.87 को उक्त खाता संख्या 5818 के बिलासी फार्म मु 22375-50 के जमाकर्ता के हस्ताक्षर का जिला, उस समूचा हस्ताक्षरों से किया जो उन्होंने दिनांक 27.2.87 को लेकर समूचा हस्ताक्षर पुरतक पर स्वयं चिपका लिये थे और स्वीकृति लेकर मुताबक कर दिया। इस तरह इस खाते से अज्ञात व्यक्ति कुल 30775-50 की जिला करके में सकल हो गया और विभाग को क्षति उठानी पड़ी।

3. मुख्य डाकघर खीरी संयुक्त बचत खाता संख्या 2481732 की पासबुक तथा अन्तरण का आवेदन पत्र एसबी-10/बी, मुख्य डाकघर खीरी से पलिया उप डाकघर को अन्तरण हेतु दिनांक 31.8.87 को प्राप्त की। अन्तरण हेतु खीरी मुख्य डाकघर भेजने से पूर्व ही पलिया उप डाकघर में बचत खाता सं 01720501 के अन्तर्गत लेजर में खोल लिया तथा एसबी-10/बी में भरा खाता सं 01720501 दर्ज किया। जमाकर्ता के समूचा हस्ताक्षर मुख्य डाकघर से नहीं आने पर दिनांक 7.9.87 जिस दिन मु 2000/- की बिलासी हुई को जमाकर्ता श्री राज कुमार मिश्रा ने उन्हें दिये जिन्हें समूचा पुरतक पर चिपकाया और उन्होंने समूचा हस्ताक्षरों पर इस खाते से जिला करवा दी। ऐसा करके उन्होंने डाकतार नियम पुरतक खण्ड-6 भाग-2 के नियम 425 व 442 में दिये गये प्रावधानों का उल्लंघन किया जिससे अज्ञात व्यक्ति इस खाते से मु 2000/- की जिला करके में सकल हो गया और विभाग को 2000/- की क्षति उठानी पड़ी।

श्री विक्रम वर्मा पर लालच है कि उन्होंने डाकतार नियम पुरतक खण्ड-6 भाग-2 के नियम 425 व 442 में दिये गये प्रावधानों का पालन नहीं किया। ऐसा करके उन्होंने अपने कार्य में कर्तव्य परायणता बनाए रखी। इस तरह उन्होंने केन्द्रीय सिविल सेवा आवरण नियमावली 1964 के नियम 31(1)(ii) का उल्लंघन किया।

क्रमशः पेज 2 पर.

विक्रम वर्मा

श्री विष्णु वर्मा ने अपने प्रादेशीय पत्र दिनांक 6.3.89 द्वारा अभिलेखों की प्रतिलिपियां मांगी, उन्होंने सम्बन्धित रिपोर्ट दिनांक 3.4.89 को देखकर अपना अभ्यावेदन दिनांक 8.4.89 दिया जो इस कार्यालय में 10.4.89 को प्राप्त हुआ।

श्री विष्णु वर्मा का अभ्यावेदन दिनांक 8.4.89 व सम्बन्धित अभिलेखों का महत्त्वता में अध्ययन किया।

श्री विष्णु वर्मा ने अपने अभ्यावेदन में कहा है कि उन्होंने सुपरवाइजर के निर्देशानुसार जमाकर्ता के अलग से बना हस्ताक्षर लेकर समूचा पुस्तक पर चिपका लिए जिसे सुपरवाइजर ने प्रतिहस्ताक्षरित कर दिया और उनके कक्ष के मुताबिक ही गया जाता संज्ञियुक्त कर के मुख्य डाकघर भेजा और उनके आदेशों का पालन करता उसका कर्तव्य था उन्होंने आपात्त इसलिए नहीं की कि उन्होंने समझा कि जमाकर्ता सुपरवाइजर का जोई परिचित की होना। एसबी-101बी। गौ०मो०ना० 5 साता टीडी जाता सं० 2126 जिसमें श्री विष्णु वर्मा ने पालिया जाता सं० 125818 दर्ज किया है को देखते हैं स्पष्ट है कि सुपरवाइजर ने जोई श्री लिखित आदेश नहीं किये हैं। कि गया जाता संख्या दर्ज कर दें तथा मुख्य डाकघर भेज दें। समूचा हस्ताक्षर पुस्तिका में श्री समूचा अलग से लेकर निर्धारित स्थान पर नहीं चिपका कर प्रथम कासम में चिपकाया है डाक तार दिनांक पुस्तक खण्ड-6 भाग-2 के नियम 442 के अनुसार एसबी-101बी। काम व पात्रमुख मुख्य डाकघर को भेज देनी चाहिए बी और नियम 442। 41 के अनुसार जब एसबी रिलेप में दर्ज एसबी-101बी। मुख्य डाकघर से प्राप्त होता है तब लेजर में गया जाता खोलना चाहिए। समूचा रिलेप जो उक्त एसबी-101बी। के तब मुख्य डाकघर से आई होती है, में श्री गया जाता संख्या दर्ज करना चाहिए। उक्त एसबी-101बी। जो डी एटी० समझा जाता है तथा एटी रजिस्टर में दर्ज होती है तब समूचा रिलेप हस्ताक्षर समूचा पुस्तिका में चिपकाई जाती है इसके उपरान्त ही उक्त एसबी-101बी। डाक्यूमेंट लिस्ट में दर्ज कर मुख्य डाकघर वापस भेजी जाती है। परन्तु श्री विष्णु वर्मा ने यह कार्य पूर्व ही कर लिया तथा प्रावधानों का पालन नहीं किया जिसे उक्त जाता बिना मुख्य डाकघर के अनुमति के ही अन्तरण कर खोल लिया गया तबसे पालिया उप डाकघर में इस जाता से कुर्बिबियोजन करके जा रास्ता चल गया।

श्री विष्णु वर्मा के अभ्यावेदन के अनुसार उक्त 5 साता टीडी जाता संख्या 125818 में दिनांक 15.6.87 को जमाकर्ता के बिक्री की काम काउन्टर पर प्रस्तुत किया तब उन्होंने अपने अभिलेख में उपलब्ध हस्ताक्षरों के जमाकर्ता के हस्ताक्षर का मिलान किया जो मिलने से तब मिलान के हस्ताक्षर करके सुपरवाइजर के पास हस्ताक्षर मिलाने को रज दिया। सुपरवाइजर ने मिलान कर अपने हस्ताक्षर कर वापस किया तब उन्होंने उक्त जाता का अनिल मुक्तान का अदायगी प्रमाण तैयार करके मय पात्रमुख टीडी लेजर तथा समूचा हस्ताक्षर पुस्तक स्वीकृत करके हेतु सुपरवाइजर के पास रज दिया। तब बाद स्वीकृति के हस्ताक्षर कर दिये, पावती रसीद श्री राम खी० चौधारी ने भर दी जमाकर्ता के हस्ताक्षर कर दिये तब उन्होंने जमाकर्ता को देय धन-राशि रु० 22375-50 का भुगतान कर दिया। उन्होंने समूचा हस्ताक्षर सुपरवाइजर के कक्ष के मुताबिक अलग से ले। चिपकाये के जमाकर्ता सुपरवाइजर ने प्रतिहस्ताक्षरित कर दिया, गया जाता संख्या दर्ज करके द्वारा लिये के जाते हैं बिना ही कोई क्षति

विष्णु वर्मा

अवस्था: पेज 3 पर.....

जु 25/8/91
न्यायाधीश
जि० ५०३ तब
गला-बाह्य

बही हुई और न ही इसमें उलझा कोई दोष है। श्री विक्रम वर्मा को यह माहुर या कि मुख्य डाकघर खीरी से एसबी-101बी के साथ समूचा रिलफ बही आई थी जो कि ए०टी० मढ़नी जाती है जिसके डाकतार नियम पुस्तक खण्ड-6 भाग-2 के नियम 442/41 में दिया गया है जो समूचा रिलफ पूर्व से ही लेकर रखी गई थी उसकी के आधार पर निकासी काम पर बने हस्ताक्षर का मिलान कर मुमताब हवीकृत करवाकर मुमताब कर दिया। यदि उक्त समूचा हस्ताक्षर मुख्य डाकघर खीरी के द्वारा प्राप्त हुये होते तो श्री विक्रम वर्मा की जिम्मेवारी बही होती परन्तु समूचा हस्ताक्षर उक्त आते के अन्तरण से पूर्वही लेकर रखे गये थे इस प्रकार की विक्रम वर्मा के डाकतार नियम पुस्तक खण्ड-6 भाग-2 के नियम 442 में दिये गये प्रावधानों का पालन बही किया और विभाग को क्षति पहुंचाने में योगदान दिया क्योंकि अज्ञात व्यक्ति उक्त आते के निकासी करने में सफल हो गया।

श्री विक्रम वर्मा ने अपने अभ्यावेदन दिनांक 8.4.89 में कहा है कि खीरी प्रधान डाकघर संयुक्त ब०ब० खाता सं० 2481732 की पासबुक अन्तरण आवेदन पत्र प्राप्त दिनांक 31.8.87 को किया उन्होंने सुपरवाइजर के प्रतिहस्ताक्षरित करके के साथ उसके कहने के अनुसार ही बया खाता संख्या एसबी-101बी पर दर्ज किया और समूचा रिलफ अलग से लेकर समूचा हस्ताक्षर पुस्तिका में चिपकाये और दिनांक 7.9.87 को जमाकर्ता को मु० 2000/- की निकासी उन्हीं हस्ताक्षरों के मिलानकर कर दिया। समूचा रिलफ पूर्व तारीख मोहर से छपी बही थी इसलिए 7.9.87 की तारीख मुहर से छाप दी। समूचा रिलफ जमाकर्ता से दिनांक 31.8.87 को लेकर समूचा हस्ताक्षर पुस्तक पर चिपकाये गये थे।

खीरी ब०ब० खाता संख्या 2481732 के एसबी-101बी को देखने से स्पष्ट है कि श्री विक्रम वर्मा को बया खाता संख्या दर्ज करके के लिए कोई लिखित निर्देश सुपरवाइजर के बही हैं इसमें श्री विक्रम वर्मा ने खाता संख्या 1720501 दर्ज किया है तथा लेजर में खाता खोल लिया। श्री विक्रम वर्मा के बया दि० 10.10.87 के अनुसार उन्होंने कहा था कि जमाकर्ता के समूचा हस्ताक्षर दि० 7.9.87 को समूचा पुस्तक पर चिपकाये जो श्री राज कुमार मिश्रा ने दिनांक 7.9.87 को उन्हें दिये क्योंकि मुख्य डाकघर से समूचा हस्ताक्षर प्राप्त नहीं हुए थे श्री विक्रम वर्मा ने डाकतार नियम पुस्तक खण्ड-6 भाग-2 के नियम 442/41 में दिये गये प्रावधानों का पालन करने से पूर्व ही खाता अन्तरण कर लेजर में खाता संख्या 1720501 द्वारा खोल लिया और समूचा हस्ताक्षर मुख्य डाकघर खीरी से प्राप्त न होने पर दि० 7.9.87 को समूचा ^{हस्ताक्षर} ~~लेकर~~ चिपका दिया और उन्हीं समूचा के आधार पर मु० 2000/- की निकासी करवा दी। यदि समूचा हस्ताक्षर मुख्य डाकघर के माध्यम से प्राप्त हुए होते तो खीरी जिम्मेवारी मुख्य डाकघर की होती परन्तु यह कार्य श्री विक्रम वर्मा ने ही कर लिया। उसके द्वारा की गई अनियमितियों के कारण विभाग को क्षति उठानी पड़ी ~~उस~~ इस दुर्विनियोजन से डाक तार नियम पुस्तक खण्ड-6 भाग-2 के नियम 442 में दिये गये प्रावधानों के उल्लंघन द्वारा पालन न करने से उनका योगदान रहा।

श्री विक्रम वर्मा ने अपने अभ्यावेदन में यह भी कहा है कि नियम में ऐसा कोई प्रावधान नहीं है कि अज्ञात व्यक्ति को विज्ञान न किये जाय। नियम कहता है कि जमाकर्ता के पास पासबुक हो तथा उसके खाते में खाया हो और रुपये निकासने का प्रार्थना पत्र हो और समूचा हस्ताक्षरों से जमाकर्ता के हस्ताक्षर मिलाने से हस्ताक्षर मिल रहे हो तो जमाकर्ता को मुमताब कर दिया जाये यहां जान पहचान का प्रतिबन्ध बिल्कुल नहीं है। श्री विक्रम वर्मा का कथन सत्य नहीं है क्योंकि,

विक्रम वर्मा

कमला देव 1 अप्रैल 1989

एसबी-3 में किये गये जिन हस्ताक्षरों से क्या छाता खोला जाता है, उन्हीं हस्ताक्षरों से उक्त छाते से रूपया निकाला जा सकता है जो बमूबा हस्ताक्षर मुख्य डाकघर से एसबी-101बी के साथ प्राप्त होते हैं उन्हीं बमूबा हस्ताक्षर के आधार पर उक्त ट्रान्सफर होकर आये छाते से रूपया निकाल सकता है परन्तु इस मामले में बमूबा हस्ताक्षर मुख्य डाकघर से आये ही नहीं। श्री विक्रम वर्मा ने बमूबा हस्ताक्षर लेकर बमूबा हस्ताक्षर पुस्तिका में विज्ञापन दिये और उन्हीं बमूबा हस्ताक्षरों के आधार पर ही बिक्री कर दी श्री विक्रम वर्मा के कथनानुसार चाहे पासबुक किसी की हो स्वयं ही किसी भी अज्ञात व्यक्ति के बमूबा हस्ताक्षर लेकर रख लिये जायें और उन्हीं बमूबा हस्ताक्षरों पर उक्त पासबुक में बिक्री करवा दी जाय। इस प्रकार की गई बिक्री अवैध है और विज्ञापन विरुद्ध है। यदि श्री विक्रम वर्मा ने पासबुक व अन्तरणा फार्म एसबी-101बी मुख्य डाकघर भेज दी होती क्योंकि उनके कार्यालय में अमाकता के बमूबा हस्ताक्षर नहीं थे और मुख्य डाकघर से एसबी-101बी बमूबा हस्ताक्षर के साथ आती जो एंटी-0 माली जाती और इस बमूबा हस्ताक्षरों पर भ्रमताब किया गया होता तो उस पर कोई जिम्मेवारी नहीं आती परन्तु श्री विक्रम वर्मा ने यह सब कार्यवाही होने से पूर्व ही लेजर में छाते छोल लिये, क्या छाता संख्या एलाठ कर दिये, बमूबा हस्ताक्षर लेकर रख लिये और उन्हीं पर बिक्री करवा दी। इस तरह इस दुर्घटनियोजन में उक्त स्पष्ट योमदान रहा और विषयों का पालन करने में अक्षम रहे। ऐसा करके उन्होंने केन्द्रीय सिविल सेवा आवरण नियमावली 1964 के नियम 31.1.1 का स्पष्ट उल्लंघन किया। उस पर लगाये लाठन पूर्णतया सिद्ध हैं इसलिए पलिया वॉच-आता संख्या 1720501 में मु02000/- के क्षति पूर्ति के लिए इन्हें 500/- के लिए जिम्मेवार ठहराया जाता है तथा पलिया टी0 डी0आता सं0125818 में मु0 30775-50 के क्षति पूर्ति के लिए इन्हें 7750/- के लिए जिम्मेवार ठहराया जाता है।

: आदेश :

में दयाराम अचीवक डाकघर छीरी मण्डल, छीरी श्री विक्रम वर्मा डाक सहायक छीरी मुख्य डाकघर के वेतन से मु08250/- आठ हजार दो सौ पचास रु० की वसूली का दण्ड देता है जो 250/- मासिक से की जाय।

दयाराम

अचीवक डाकघर,
छीरी मण्डल, छीरी-262701

प्रतिलिपि:-

1. श्री विक्रम वर्मा डाक सहायक छीरी पोस्टो
2. डाकघर छीरी
3. वरिष्ठ पंजिका
4. व्यक्तिगत पत्रावली
5. दण्ड रजिस्टर
6. कार्यालय प्रति
7. अतिरिक्त प्रति

विक्रम वर्मा

Attested
True copy
M. Dubey
Adv.

OFFICE OF THE DIRECTOR POSTAL SERVICES
LUCKNOW REGION:LUCKNOW- 226007

Memo No. RDL/App-161/89/13 dated at Lucknow: 30.11.89

This is the appeal dated 16.6.89 preferred by Sri Vikram Verma PA Kheri H.O. against the punishment orders of recovery of Rs8250/- in monthly instalments of Rs250/- each imposed upon him vide SPOs Kheri memo No.F-6/87-88/Disc-7 dated 28.4.89 served upon him on 6.5.89. The appeal is thus not timebarred.

2. In the disciplinary proceedings initiated against him u/R 16 of the CCS (CCA) Rules 1965 vide SPOs Kheri memo number even dated 1.3.89 the appellant was charged for violation of the provisions of rule 425 and 442 of P&T Man Vol VI Part II and rule 3(1)(ii) of the CCS (Conduct) Rules 1964 by alleging that while working as SB counter assistant Pallia SO. the appellant opened on transfer Golagokarannath TN A/C no.2126 without intervention of the H.O., pasted specimen signature of the depositor in the office specimen signature book and subsequently allowed final withdrawal of Rs22375.50 from the aforesaid account on the strength of the specimen signature of the depositor irregularly kept on record in aforesaid manner. Later on it was found that the withdrawal was made by some unknown person resulting in the loss of Rs30775.50. In the second charge it was alleged that the appellant in the similar fashion opened on transfer Kheri H.O. joint SB A/c No.2481732 on 31.8.87 without intervention of H.O. and on 7.9.87 allowed a withdrawal of Rs2000/- from the account so transferred by obtaining fresh specimen signatures causing a loss of Rs2000/- to the department.

3. The appellant vide his application dated 6.3.89 demanded inspection of certain documents which were shown to him on 3.4.89. The appellant submitted his written statement of defence dated 8.4.89 which was duly considered by the disciplinary authority alongwith the memo of charges and other facts of the case before arriving at a conclusion that the charges were proved against the appellant resulting in the award of the penalty appealed against.

4. I have carefully gone through the contents of the appeal and material evidence on record in the disciplinary proceedings file and have arrived at the following conclusions with regard to the arguments of the appellant.

(i)The plea that the charge sheet is vague is misconceived and not tenable. Infringement of rule 425 & 442 of P&T Man Vol VI Part II has been rightly alleged and found proved beyond any doubt.

(ii)The appellant has expressly admitted that there have been lapses in opening the accounts on transfer but has tried to blame H.O. and the S.P.M. for not challenging the procedure adopted in transfer of the accounts. In view of these facts the appellant cannot be absolved of his responsibilities. Once it is established that the withdrawals have been made on the strength of the specimen signatures kept on record in contravention of the rules on the subject liability for the loss, if any, is to be shared by all the officials responsible for their lapses.

12/3/89

(iii) In view of the above discussions there is absolutely no justification to intervene in the punishment.

5. I, therefore, hereby, reject the appeal of the appellant and confirm the penalty already imposed on him vide SPOs Kheri Division memo referred to above.

(B.P. Singh)
(B.P. Singh)

Director Postal Services,
Lucknow Region: Lucknow-226007

Copy to:

- 1. The official concerned.
- 2 to 4 SPOs Kheri.
- 5 to 6 Office copy and spare.

KML

Appellant

*Noted
True copy
M. Dickey
H/W*

ब अदालत श्रीमान

CAT, Circuit Bench, Lucknow

महोदय

[वादी] अपीलान्त

श्री Vikram Verma

वकालतनामा

प्रतिवादी [रेस्पान्डेन्ट]

(टिकट)

वादी (अपीलान्त)

Vikram Verma

बनाम UOI प्रतिवादी (रेस्पान्डेन्ट)

मुकदमा नं०

सन्

पेशी की ता०

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ऊपर लिखे मुकदमा में अपनी ओर से श्री

B. Solomon, Advocate

High Court Lucknow & M. Duley, Adv. वकील 4th
Lane, Nausaiga, Ganeshtganj, Lucknow महोदय एडवोकेट

नाम अदालत
मुकदमा नं० नाम
फरीकन बनाय

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें वा कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजना रहूंगा छपर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

Vikram Verma

साक्षी (गवाह)

साक्षी (गवाह)

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महीना

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सन् १९७० ई०

Accepted
B. Solomon

M. Duley

भारतीय डाक-तार विभाग

कार्यालय डाक अधीक्षक, खीरी मण्डल, खीरी - 262701

ज्ञापन संख्या: २५५-६/४७४४/डि.स.७ दिनांक 1-3-89

1. श्री. ~~विक्रम वर्मा~~..... जिस कार्यालय में कार्य कर रहे हैं को स्तद्वारा सूचित किया जाता है कि केन्द्रीय सिविल सेवा & वर्गीकरण नियंत्रण-और अपील & नियमावली 1965 के नियम 16 के अन्तर्गत उसके विरुद्ध जांच करने का प्रस्ताव दिया गया है अवचार अथवा कदाचार के लक्षणों का एक विवरण संलग्न है जिसके सम्बन्ध में जैसा उपर उल्लेख है कार्रवाई करना प्रस्तावित किया गया है।
2. श्री. ~~विक्रम वर्मा~~..... को इस प्रस्ताव के विरुद्ध अपनी इच्छा अनुसार अभ्यावेदन प्रस्तुत करने का अवसर प्रदान किया जाता है।
3. यदि श्री. ~~विक्रम वर्मा~~..... अपना अभ्यावेदन इस ज्ञापन की प्राप्ति के 10 दिन के अन्दर भेजने में असफल रहते हैं तो यह मान लिया जाएगा कि उसे कोई अभ्यावेदन नहीं देना है और श्री. ~~विक्रम वर्मा~~..... के विरुद्ध एक महोदय आदेश पारित कर दिया जाएगा।
4. इस ज्ञापन की पावती श्री. ~~विक्रम वर्मा~~..... द्वारा भेजी जाए।

~~डाक अधीक्षक,~~
खीरी मण्डल,
खीरी -262701

पंजीकृत पावती सहित

सेवा में,

श्री. ~~विक्रम वर्मा~~
.....
.....
.....

जोशी/

~~विक्रम वर्मा~~

Attested
True copy
R. D. Singh
1/1/89

Ikram Verma

versus

Union of India & Others

ANNEXURE No. A-4

श्री विक्रम वर्मा, डाक सहायक खीरी प्रधान डाकघर के विरुद्ध विरचित
अवधार अवधार कदाचार के लक्षणों का विवरण

यह कि उक्त श्री विक्रम वर्मा ने दिनांक 27.2.87, 15.6.87, 31.8.87, 7.9.87 को काउन्टर डाक सहायक बचत बैंक पलिया के बतौर कार्य करते हुए निम्न गम्भीर भ्रष्टियों को करके विभागीय नियमों का उल्लंघन किया।

1. क। मोला मोकरन बाथ 5 साता टी.डी. खाता संख्या 2126 की पासबुक व अन्तरण का आवेदन पत्र एसबी-10।बी।, मोला मोकरन बाथ उप डाकघर से पलिया उप डाकघर को अन्तरण हेतु दिनांक 27.2.87 को प्राप्त की। अन्तरण हेतु खीरी मुख्य डाकघर भेजने से पूर्व ही पलिया उप डाकघर में 5 साता टी.डी. खाता संख्या 125818 के अन्तर्गत लेख में खोल लिया तथा एसबी-10।बी। में नया खाता संख्या दर्ज किया। जमाकर्ता के बमुन्ना हस्ताक्षर पासबुक भेजते समय ही लेकर अपने बमुन्ना पुस्तक में चिपका लिए। ऐसा करके उन्होंने डाकतार नियम पुस्तक खण्ड-6 भाग-2 के नियम 442 में दिये गये प्रावधानों का उल्लंघन किया।

2. ख। दिनांक 15.6.87 को उक्त खाता संख्या 125818 के बिकासी फार्म मु022375-50 के जमाकर्ता के हस्ताक्षर का मिलाव, उन बमुन्ना हस्ताक्षरों से किया जो उन्होंने दिनांक 27.2.87 को लेकर बमुन्ना हस्ताक्षर पुस्तिका पर स्वयं चिपका लिये थे और स्वीकृति लेकर प्रमत्त कर दिया। इस तरह इस खाते से अज्ञात व्यक्तित्व कुल 30775-50 की बिकासी करने में सफल हो गया और विभाग को क्षति उठानी पड़ी।

3. ग। मुख्य डाकघर खीरी संयुक्त बचत खाता संख्या 2481732 की पासबुक तथा अन्तरण का आवेदन पत्र एसबी-10।बी।, खीरी मुख्य डाकघर से पलिया उप डाकघर को अन्तरण हेतु दिनांक 31.8.87 को प्राप्त की। अन्तरण हेतु खीरी मुख्य डाकघर भेजने से पूर्व ही पलिया उप डाकघर में बचत खाता संख्या 1720501 के अन्तर्गत लेख में खोल लिया तथा एसबी-10।बी। में नया खाता संख्या 1720501 दर्ज किया। जमाकर्ता के बमुन्ना हस्ताक्षर, मुख्य डाकघर से नहीं आने पर, दिनांक 7.9.87 जिस दिन मु02000/- की बिकासी हुई, को जमाकर्ता श्री राज कुमार मिश्रा ने उन्हें दिये जिन्हें बमुन्ना पुस्तक पर चिपकाया और इन्हीं बमुन्ना हस्ताक्षरों पर इस खाते से बिकासी करवा दी। ऐसा करके उन्होंने डाकतार नियम पुस्तक खण्ड-6 भाग-2 के नियम 425 व 442 में दिये गये प्रावधानों का उल्लंघन किया जिससे अज्ञात व्यक्तित्व इस खाते से 2000/- की बिकासी करने में सफल हो गया और विभाग को 2000/- की क्षति उठानी पड़ी।

विक्रम वर्मा

क्रमशः पेज 2 पर.....

श्री विक्रम वर्मा पर लागू है कि उन्होंने डाकतार नियम पुस्तक खण्ड-6 भाग-2 के नियम 425 व 442 में दिये गये प्रावधानों का पालन नहीं किया। ऐसा करके उन्होंने अपने कार्य में कर्तव्य परायणता बनाये नहीं रखी। इस तरह उन्होंने केन्द्रीय विपिन सेवा आवरणों नियमावली 1964 के नियम 3.1.1.1 का उल्लंघन किया।

विक्रम वर्मा

श्री विक्रम वर्मा
डाकतार
हारी मण्डल, हारी-26270।

Witnessed
the copy
M. Dubey
Min

ANNEXURE No. A-5

सेवा में,

अधीक्षक डाकधर,
खीरी मण्डल,
खीरी ।

विषय: केन्द्रीय सिविल सेवा (सी सी एस) नियंत्रण और अपील का
नियम 1965 .

संदर्भ: आपका पत्र स्प-6/87-88/डिस-7 दिनांक 1-3-89.

मान्यवर,

आपके द्वारा मेरे ऊपर लगाये आरोपों के संदर्भ में मेरा
प्रतिवेदन विन्दुवार निम्न है :-

1-क हमारे ऊपर यह आरोप लगाया गया है कि गोला गोक-
रैन नाथ 5 साला टी0डी0 खाता सं0 2126 की पासबुक व अन्तरण
का आवेदन पत्र गोला उप डाकधर से पालिया उप डाकधर के अन्तरण
हेतु दिनांक 27-2-87 को प्राप्त की । अन्तरण हेतु खीरी मुख्य-
डाकधर भेजने से पूर्व ही पालिया उप डाकधर से 5 साला टी0डी0
खाता सं0 125818 के अन्तर्गत लेजर से छोल लिया तथा S810(B)
पर नया खाता दर्ज किया जमाकर्ता के नमूना हस्ताक्षर पासबुक भेजते
समय ही लेकर अपने नमूना पुस्तक पर चिपका लिए । इस सम्बन्ध
में हमें निम्न कहना है :-

2- दिनांक 4-8-86 को 5 साला सादीध खाता संख्या-
125818 के खोलेदार ने अपना अन्य 5 साला खीरी खाता संख्या-
50975 पालिया को 125788 के अन्तर्गत स्थानान्तरित कराया था
जिसके स्थानान्तरण की सभी प्रिविस्टियाँ श्री रामलोट सोनार
द्वारा वाइजर पालिया द्वारा अपनी हस्तीलिपि से की गयी थी और
उन्होंने स्वयं नमूना हस्ताक्षर पुस्तक पर जमाकर्ता श्री के0पी0 मिश्र
के हस्ताक्षर कराकर उन्हें प्रीत हस्ताक्षरित किया था। यह खाता
खीरी से पालिया ट्रान्सफर होकर आया तदुपरान्त दि0 17-7-86
को यह खाता श्री राम लोट सोनार के सुपरिवीजन में अन्तिम रूप
से बन्द कर दिया गया था ।

11- दिनांक 27-2-87 को गोला 5 साला टी0डी0 खाता
सं0 2126 की पासबुक तथा एस0बी0-10बी श्री राम लोट सोनार
द्वारा प्रीतहस्ताक्षरित प्राप्त हुआ भेन सुपर वाइजर के निर्देशानुसार
जमाकर्ता के अलग से नमूना हस्ताक्षर लेकर नमूना पुस्तक पर चिपका
लिए जिसे सुपर वाइजर ने प्रीतहस्ताक्षरित कर दिया भेन इस पर
आश्चर्य इसीलए नहीं की क्यों कि सुपरवाइजर साहब से जमाकर्ता
के हस्ताक्षरों को प्रीतहस्ताक्षरित किया था इसीलए भेन समझा कि
जमाकर्ता सुपरवाइजर का कोई परिचित ही होगा । जहाँ तक नया
खाता नियुक्त करने का सवाल है तो इस सम्बन्ध में मेरा कहना है
कि मुझे सुपर वाइजर ने ही नया खाता संख्या नियुक्त करके भेजने
को कहा था और उनके आदेशों का पालन करना भी मेरा कर्तव्य
था । इस प्रकार भेन इसमें किसी भी नियम का उल्लंघन नहीं किया है।

ख- हमारे ऊपर आरोप लगाया गया है कि दि0 15-6-87

क्रमः -----2

विक्रम वर्मा

को उक्त खाता संख्या 125818 के निकासी फार्म मु0 22376-80 के जमाकर्ता के हस्ताक्षर का मिलान उन नमूना हस्ताक्षरों से किया जो उन्होंने दि0 27-2-87 को लेकर नमूना हस्ताक्षर पुस्तक पर स्वयं चिपका लिए थे और स्वीकृति लेकर भुगतान कर दिया इस सम्बन्ध में हमें कहना है कि:-

2- दिनांक 15-6-87 को 5 साला टी0डी0 खाता संख्या-125818 का जमाकर्ता काउन्टर पर आया और निकासी फार्म प्रस्तुत किया जब मैं अपने अभिलेख में उपलब्ध हस्ताक्षरों से जमाकर्ता के हस्ताक्षर का मिलान किया जो मिलते थे तब मैं मिलान के हस्ताक्षर करके सुपरवाइजर के पास हस्ताक्षर मिलाने का रख दिया जब सुपरवाइजर ने जमाकर्ता के हस्ताक्षरों को मिलाकर अपने द्वारा प्रतिहस्ताक्षरित करके वापस किया तब मैं उक्त खाता का अन्तिम भुगतान का अदायगी अधिपत्र तैयार करके मय पासबुक टी0डी0 लेकर तथा नमूना हस्ताक्षर पुस्तक पास करने हेतु सुपर वाइजर के पास रख दिया । सुपरवाइजर साहब ने जांचा और पास करके सभी अभिलेखों के साथ वापस कर दिया तब मैं जमाकर्ता से पावती रसीद भरने के लिए कहा तब श्री राम लोट सोनार ने अपनी हस्ताक्षर से पावती रसीद भर दी और जमाकर्ता ने पावती रसीद पर हस्ताक्षर कर दिये तब मैं जमाकर्ता को देय धनराशि मु0 22375-50 का भुगतान कर दिया । मैं जमाकर्ता के नमूना हस्ताक्षर स्वयं लेकर नहीं चिपकाये थे बल्कि सुपरवाइजर ने मुझे कहा कि आप जमाकर्ता के नमूना हस्ताक्षर अलग से लेकर चिपकाये जिन्हें मैं प्रति हस्ताक्षरित कर दूंगा । तब मैं ऐसा किया था और उन्होंने नमूना हस्ताक्षरों को प्रति हस्ताक्षरित कर दिया था इस प्रकार मेरे द्वारा किये गये कार्य से इस भाग को कोई क्षति नहीं हुई है और न ही इसमें मेरा कोई दोष है ।

2- मेरे ऊपर दूसरा आरोप यह है कि मैं छीरी प्र0डो संयुक्त ब0ब0 खाता सं0 2481732 की पासबुक अन्तरण अधिदन पत्र छीरी से पालिया अन्तरण हेतु दिनांक 21-8-87 को प्राप्त की । छीरी अन्तरण हेतु भेजने से पूर्व ही पालिया उप डाकघर में ब0ब0 खाता सं0 1720501 के अन्तर्गत खोल लिया और एस0बी0-10बी पर नया खाता दर्ज करके पासबुक छीरी भेज दी । जमाकर्ता के नमूना हस्ताक्षर मुख्य डाकघर से न मिलने पर दि0 7-9-87 को जिसे मु0 2000/- की निकासी हुई थी श्री राज कुमार मिश्रा ने उन्हें दिये जिन्हें नमूना पुस्तक पर चिपकाया और इन्हीं नमूना हस्ताक्षरों पर इस खाते से निकासी करवा दी इस सम्बन्ध में हमें निम्न कहना है :-

2-1 आपके आरोप न02 में भी मेरा उपरोक्त स्पष्टीकरण समझा जाये । मैं दि0 21-8-87 को जमाकर्ता के नमूना हस्ताक्षर नमूना हस्ताक्षर पुस्तिका पर चिपकाये थे जो जमाकर्ता ने अलग से दिये थे दिनांक-7-9-87 को जमाकर्ता ने मु0 2000/- के भुगतान हेतु विद्वाल फार्म भर कर दिया तब मैं जमाकर्ता के हस्ताक्षरों को नमूना हस्ताक्षर पुस्तक से मिलान किया तो पाया कि नमूना हस्ताक्षर पुस्तक पर नमूना हस्ताक्षर ब0ब0 की मोहर से नहीं कटे हैं तब मैं दि0 7-9-87 की ब0ब0 की मोहर नमूना हस्ताक्षर पुस्तक पर लगा दी जिससे साबित हो रहा

प्रमश:-----3

निकुलका

(24)

हे एक दिनांक 7-9-87 को नमूना हस्ताक्षर लिए गये हैं परन्तु ऐसा नहीं हुआ वास्तव में नमूना हस्ताक्षर जमाकर्ता से दि० 21-8-87 को ही लेकर के नमूना हस्ताक्षर पुस्तक पर चिपकाये गये थे ।

जहाँ तक अज्ञात व्यक्ति को दि० 7-9-87 को 2000/- का भुगतान करने का आरोप है तो मुझे कहना है कि नियम में ऐसा कोई प्रावधान नहीं है कि अज्ञात व्यक्ति को विद्वान न किये जायें नियम कहता है कि जमाकर्ता के पास पासबुक हो तथा उसके खाते में बकाया हो और समया निकालने का प्रार्थना पत्र हो और नमूना हस्ताक्षरों से जमाकर्ता के हस्ताक्षर मिलाने से हस्ताक्षर मिल रहे हों तो जमाकर्ता को भुगतान कर दिया जाये । यहाँ जनन-पहचान का प्रतिबन्ध बिल्कुल नहीं है ।

अतः ऐसी दशा में यह आरोप नियम विरुद्ध तथा असंगत है । अतः मेरे ऊपर लगाये गये समस्त आरोप असत्य और निराधार हैं इस लिए आप से प्रार्थना है कि मेरे साथ न्याय करते हुए मुझे दोषमुक्त करने की कृपा करें ।

दिनांक - 26/09

विक्रम वर्मा

सूर्य,
दिनांक 26/9/87

॥ विक्रम वर्मा ॥
डाक सहायक, खीरी प्र० डा० ०.

Attested
True copy
M. Dubey
MDW

ANNEXURE No. A-6

(b) *Manner in which charge-sheet to be framed.*—As is well known the penalty of recovery from pay is a special type of penalty which cannot be awarded in all types of misconduct. Rule 11 (3) of the C.C.S. (C.C.A.) Rules, 1965, clearly prescribes that the penalty of recovery from pay of the whole or part of the loss caused by the Government servant to the Government by negligence or breach of orders on his part can be awarded to him. Thus, the rule itself makes it clear that this penalty can be awarded only in a case where it has been established that the negligence or breach of orders on the part of a Government servant has led to the loss to the department. Instructions were also issued in the past bringing the special provision of the rule to the notice of all concerned, but it has been observed that the requirement of the rule could not be properly appreciated by most of the disciplinary authorities. In a recent Court case, an order of penalty of recovery has been set aside on the ground that the disciplinary authority merely established certain lapses on the part of the Government servant without explaining the facts leading to the loss and the manner in which the lapses on the part of the Government servant had a link with the loss sustained by the department. No appeal has been filed in this case as it was found that it would not be possible to sustain the order of the penalty of recovery which was not consistent with the rule referred to above. A number of frauds or misappropriations are committed and it is not always possible to recover the entire amount of loss from the real culprit. In some cases, it is not even possible to locate the real culprit and accordingly it becomes impossible to take action against the subsidiary offenders with the primary object of recovering loss sustained by the department. It should be clearly understood by all the disciplinary authorities that while an official can be punished for good and sufficient reasons, the penalty of recovery can be awarded only if the lapses on his

part have either led to the commission of the fraud or misappropriation or frustrated the enquiries as a result of which it has not been possible to locate the real culprit. It is, therefore, obligatory that the charge-sheet should be quite elaborate and should not only indicate clearly the nature of lapses on the part of the particular official but also indicate the *modus operandi* of the frauds and their particulars and how it can be alleged that but for the lapses on the part of the official, the fraud or misappropriation could be avoided or that successful enquiries could be made to locate the stage at which the particular fraud had been committed by a particular person. This will enable the accused not only to submit a defence against the allegation brought against him but also to explain how the lapses had not contributed to the loss in any manner. The disciplinary authority is also required to give a clear finding in the punishment order on both these points. If it is not done, the order, awarding the penalty of recovery will be liable to be set aside. The Heads of Circles and Administrative Offices etc., are requested to bring these instructions to the notice of all concerned so that the disciplinary proceedings for a penalty of recovery may not suffer from a procedural flaw.

[D.G., P & T No. 114/176 78-Disc. II, dated the 13th February, 1981.]

(c) *Monetary limit.*—It is clarified for the information of all concerned that recovery from pay as a punishment for any pecuniary loss caused by a Government servant by negligence or breach of orders should not exceed one-third of basic pay (i.e., excluding dearness pay or any other allowances) and should not be spread over a period of more than

Adhant

Attested
True copy
M. D. D. D.
12/11

Vikram Verma

versus

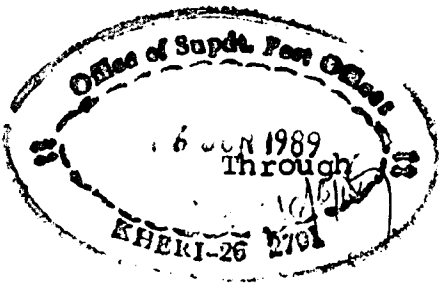
Union of India & Others

ANNEXURE No. A-7

166/19

(26)

To



The Director,
Postal Services,
Lucknow Region,
LUCKNOW.

Proper Channel.

Subject:- APPEAL AGAINST PUNISHMENT OF RECOVERY IMPOSED
VIDE S.P.Os. Kheri No. F-6/87-88/Misc.-7

Sir,

1. The humble appellant begs to submit an appeal against the above punishment with a hope that due justice will be done to the appellant considering the points of appeal as put up in the following paras:-
2. The brief history of the case is that Gola Gokaran Nath P.O. T.D. a/c No. 2126 & Kheri Head Office S.B. a/c No. 2481732 were sought to be transferred to Palia P.O. where the appellant was working as counter-clerk. The P.B. & S.B. 10 B in reg. of them were received at Palia P.O. on 27.2.87 & 31.8.87 respectively. Both the accounts were opened on the above dates, and P.B. & S.B.10 were sent to the Kheri H.O. for effecting transfer as per procedure prescribed for H.O. in the relevant rules. The former a/c was allotted the new a/c No.125818, and the latter a/c No.1720501. The H.O. completed the transfer but did not return the S.B.10 to Palia P.O., because the specimen signature on S.B.10 B tallied with those on SB 3 of the H.O. Neither the appellant nor the S.P.M. Palia could question the specimen signature obtained at Palia on the date of ~~entering~~ the transfer, because the Kheri H.O. did not communicate any difference between the specimen signature available on S.B. 10 B and on S.B.3, and because the relevant S.B. 10 B was signed by the depositor before the S.P.M. who obtained extra specimen signature, and got it pasted on S.S. Book of Palia duly countersigning both the signatures. It makes amply clear

fact

that specimen signature on S.B.-3 of H.O., on S.B.10 B and on Specimen Signature Book of S.O. tallied in all respects beyond question, and any withdrawal effected on the basis of compared signature of withdrawal forms with the specimen signature on S.S.Book cannot be termed fraudulent. Unfortunately, the depositor withdrew the amount of former on 15-6-87 in four months after opening, and the latter on 7-9-87 in 7 days after opening. One more a/c No. 1719987 opened on 17.7.86 at Palia S.O. of the self same depositor was current on the date of the payment. In these circumstances the identity of the depositor could not be doubted by any reasonable person working as P.A. or by the S.P.M. He was allowed cheque facility also. In view of the above facts also the identity of the depositor could not be questioned because withdrawals were allowed.

Now, coming to the charges the appellant has been alleged to have violated Rule 425 & 442, and Rule 31 (ii) of C.C.S. (Conduct) Rules, 1964. Rule 425 is a comprehensive Rule which to be observed by H.O. & S.O. alike, while Rule 442 is divided in so many parts, and is to be observed by the H.O., and in accordance with the phraseology of the parts relates to the procedure. Thus the charge sheet is not specific.

The appellant very humbly admits with due honesty that there has been a lapse in procedure of opening the accounts mentioned in the charge sheet, but the procedure has not been challenged by the H.O. In fact, the *Superior* himself received the S.B. 10 B from the depositor and countersigned the specimen signature on S.B. 10-B and the S.S.Book at the time of opening, and hence the counter-clerk (appellant) cannot be imputed with any disregard of rules or negligence. Had there been any disregard the H.O. would have challenged it. The depositor ~~had a running account,~~

Signature

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had a running account, and thus could command recognition, and his signature could not be challenged because he had a running cheque a/c. There has never been a complaint on cheque account, nor regarding alleged payments for which the appellant has been punished. There is nothing in the charge sheet indicating that the signatures on the withdrawal forms did not tally with those available on S.B.3 at H.O. Under these circumstances, the allegation that payment was effected to unknown person does not stand at all, nor rule 425 can be said to have been violated, for the rule concerns much to tallying of S.S. than to real identify

It may kindly be seen that the appellant has been punished on the ground of violation of Rule 425 & 442 of P.T. Manual Vol. VI (Part II) while all the Manuals have been named as Postal Manual, and hence quoting Post Manual is technically defective, and consequently the punishment imposed is also defective.

Rule 425 lays down the procedure of tallying signature with signature on S.S. Book, and Rule 442 lays down the prescribed procedure for opening account on transfer. The opening of the above accounts was done as required by the S.P.M., otherwise he was responsible for strict observance of the correct procedure. He could not stand by under the pretension of unwritten order. The procedure was not challenged by the H.O. and C.B.C.O. The amount was paid to the depositor on tallied signature which was OKAYED by the S.P.M., A.P.M. S.B.S.O. H.O., and I/C S.B.C.O. who is entrusted with 100 % checking.

It may kindly be seen on page 4 of the punishment order that the appellant has been punished only because the signature contained in the S.B. 10 B was not received from H.O., and the same was not pasted. If the signature was not received upto 15.6.87 when the a/c was opened on 27.2.87 action should have been taken against A.P.M. H.O. for recovery, and not against the appellant who paid

Pathan

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(29)

on the signature tallied with S.S.Card because signature on S.S. Card and S.B. 10-B are of the same depositor. It has nowhere been stated in the punishment order that the disciplinary authority has satisfied itself that signature on S.B.Book and S.B. 10-B do not tally. Thus, there is no logic to support the recovery on the sole ground that had the specimen signature been received from H.O., the appellant would not be responsible, as stated on page 4 of the punishment order, unless it is also established that signature on S.B.Book do not tally with the signature on S.B. 10-B. The manner in which the alleged lapse is said to have been committed has not been specified in a logical way in the charge sheet, or the punishment order. Nothing contained in Rule 425 can be said to have been violated when the signature on S.S.Book and withdrawal forms tally.

Thus, it is abundantly clear that the appellant is not guilty of violation of Rule 442 as the procedure specified therein was followed by the SPM who is responsible for opening of a/c on transfer under Rule 442. Rule 442(3) makes it amply clear that the S.P.M. shall follow the procedure. The appellant was only a counter clerk. The H.O. is responsible for not challenging the procedure. S.B.C.O. is also responsible. The appellant is also not guilty of violation of Rule 425 because he tallied the signature on the withdrawal form with those on record, and authenticated by the S.P.M.

In view of the submissions made above, the appellant who is hardpressed due to such heavy recovery may very kindly be absolved, and punishment be set aside, for which kindness he will ever remain grateful.

Encl.

1. Copy of Charge Sheet
2. Defence & Punishment Order.

Yours faithfully,

Vikram Verma 16604 SA Kln No

Advance copy submitted to the Director of Postal Services, Lucknow Region, Lucknow.

Pratap

Attested true copy
M. D. Singh
16/12

(136)

In the Central Administrative Tribunal at Allahbad,
Circuit Bench, Lucknow.

Misc. Application No. M.P.N. 720 of 1990 (L, f. f. 14/2/91)
on behalf Respondents.

In
Case No. 216 of 1990

Vikram Varma versus. Applicant.

Union of India & Others..... Respondents.

APPLICATION FOR CONDONATION OF DELAY

The respondents respectfully beg to submit as under :-

1. That the written reply on behalf of the respondents could not be filed within the time allotted by the Hon'ble Tribunal on account of the fact that after receipt of the parawise comments from the respondents, the draft-reply was sent to the department for vetting.
2. That the approved written reply has been received and is being filed without any further loss of time.
3. That the delay in filing the written reply is bonafide and not deliberate and is liable to be condoned.

WHEREFORE, it is prayed that the delay in filing the written reply may be condoned and the same may be brought on record on which the respondents shall ever remain grateful as in duty bound.

Lucknow :

Dated : 22/11

(Dr. Dinesh Chandra)
Counsel for the Respondents.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH

LUCKNOW

Counter Affidavit on behalf of Respondent No. 3

In

O.A No. 216 of 1990.

Vikram Verma

Applicant.

versus

Union of India & Others

Respondents.

I, Daya Ram, aged about 53 years, son of late Shri Bachi Ram, Superintendent of Post Offices, Kheri, Division, Lakhimpur Kheri do hereby solemnly affirm and state as under:

1. That the deponent has read the application filed by Shri Vikram Verma and has understood the contents thereof.
2. That the deponent is well conversant with the facts of the case deposed hereinafter.
3. That it will be worthwhile to give a brief history of the case as under:

Brief History of the Case

Shri Vikram Verma while working as Savings Bank

contd... 2

Counter Clerk, Palia Sub ~~Rxx~~ Post Office on 27.2.87 and 15.6.87 received on 27.2.87 a fake Pass Book of 5 Year Time Deposit Account No. 2126 of Gola Gokaran Sub Post Office alongwith an application for transfer (SB-10(b) from one Shri K.P. Misra for transfer of the said account from Gola Gokaran Sub Office to Palia Sub office (Annexure R-1). The pass book showed a balance of Rs 20,000. Later on it was found that this account was closed on 8.11.83 with a balance of Rs 535/- and it was in the joint name of Smt. Sundri Devi and Shri Chhedi Lal Jaisawal of village Raniganj, district Kheri (Annexure R-2).

ii) Shri Vikram Verma, before forwarding the fake Pass Book and transfer of account application of Shri K.P. Mishra from SB-10(b) (Annexure R-1) to Kheri Head Post office opened a new account (no. 125818) in the ledger and endorsed this account number on the transfer application (SB-10(b) He also ~~posted~~ ^{pasted} specimen signature of Shri K.P. Misra who was a miscreant/fake depositor, in the Specimen Signature Book. By doing so, Shri Vikram Verma failed to observe the procedure to be adopted in such cases as laid down in Rule 442 of the P&T Mannual Volume 6 Part II. The fake Account No. 2126 of Gola Gokaran Nath Sub office was thus transferred to Palia Sub office in the name of Shri Jai Prakash ^{son} Misra ^{his} son of Shri K.P. Misra through ^{his} father with a new Account No. 125818 with a balance of Rs 20,000/- ^(Annexure R-3) On 15.6.87, Shri K.P. Misra made an application for final withdrawl of

6/6
contd....3

of the amount of Rs 20,000/- of Account No. 125818 at Palia Sub Post office. Shri Vikram Verma who was the Savings Bank Counter Clerk tallied the signature of Shri K.P. Misra with his specimen signature available in the Specimen Signature Book of the Palia Sub Office and made payment of Rs 22,375.50 and ~~pasted in the specimen signature Book of Palia Sub Office~~ to the miscreant depositor. It will be worthwhile to point out that these specimen signature of Shri K.P. Misra were obtained by Shri Vikram Verma and pasted in the specimen signature Book of Palia Sub office before sending the application for transfer of Account No. 2126 of Gola Gokaran Nath alongwith fake Pass-Book to Khari. Head Office for transfer. Thus on account of extreme negligence of Shri Verma in disregarding the ~~procedure~~ ^{procedure}, the miscreant depositor succeeded in withdrawing Rs 22,375.50 on 15.6.87 from the fake transferred Account No. 125818 and Rs 8,400/- on 30.3.87.

iii) In another case, while working as Savings Bank Counter Clerk, Palia Sub Post Office on 31.8.87 ^{and 7-9-87} Shri Verma received on 31.8.87 from one Shri Raj Kumar Misra ~~on 31.8.87 and 7-9-87 Shri Verma received on 31.8.87 a~~ fake Pass Book of Khari Head Post Office Joint Savings Bank Account No. 2481732 with a balance of Rs 33,500/- and an application in form SB-10(b) for transfer of Account No. 2481732 from Kheri HD ~~to~~ to Palia Sub Post office. Before forwarding

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-4-

the application for transfer alongwith fake Pass-Book of Account No. 2481732 ~~in the ledger~~ Shri Verma opened a new account No. 1720501 in lieu of Account No. 2481732 in the ledger of Palia Sub Office and endorsed the new Account No. on the application of transfer (SE-10(b) submitted by Shri Raj Kumar Misra (Annexure R-4). The Account No. 2481732 was transferred from Kheri Head Office to Palia with the new Account No. 1720501 which was allotted to it by Shri Verma. On account of non-receipt of the specimen signature of the depositor from Kheri Headquarter, the applicant obtained the specimen signature of Shri Rajkumar Misra on 7.9.87 and pasted the same in the specimen Signature book of Palia sub Office and on the same day i. e. on 7.9.87 made payment of Rs 2000/- to Shri Raj Kumar Misra from the account on the basis of the specimen signature so obtained.

iv) It is interesting to mention that Account No. 2481732 of Kheri Head Office was also fake. A perusal of the ledger Card of this account (Annexure R-5) shows that this account was opened on transfer from Sitapur Savings Bank Account No. 580841 with a balance of Rs 33,500/- while no such account was transferred from Sitapur Head Office to Kheri Head Post Office. As a matter of fact the Account No. 580841 was opened at Sitapur in the name of

Shri

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17/1

Shri Rakesh Chandra Gupta and still stands there with a balance of Rs 20/- (Annexure R-6).

v) Had Shri Verma observed the procedure as laid down in rules 442 and 425 of the P & T Manual, Vol VI part I, both the fake accounts could not have been transferred from Gola Gokaren Nath and Kheri Head Office to Palia as discussed above. In the absence of any instructions from the transferring Post Office with regard to the specimen signatures of the depositor, the withdrawals should have been allowed after proper identification of the depositor and in that case the identifier was responsible to produce the miscreant depositor. But in the present case the withdrawal was allowed without proper identification. Thus, on account of negligence of Shri Verma the department sustained a loss of Rs 32,775.50 for which Shri Verma alongwith other officials connected with the case is held responsible. In this way Shri Verma failed to maintain devotion to duty as required under rule 3(1)(ii) of CCS (Conduct) Rules, 1964.

vi) Shri Verma was given an opportunity to make such representation as he may wish to make against the action proposed in Memo No. F-6/87-88/Disc./7 dated 1.3.89. The applicant submitted his representation dated 8.4.89 on 10.4.89 which was duly considered by the deponent alongwith relevant records of the case. A recovery of Rs 8,250/-

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Ans

was ordered to be made for the loss of Rs 32,775.50 sustained by the department on account his negligence and disregard of the provisions contained in Rules 425 and 442 of the P & T Manual Vol. VI, part II. The quantum of recovery amount was determined after taking into account the applicant's acts of commission and omission in not following the provisions of relevant rules vis-a-vis those of other officials connected in the present case. The applicant was required to pay Rs 500/- in respect of withdrawal of Rs 2000/- and Rs 7750/- in respect of withdrawal of Rs 32,775.50. The remaining amount was to be recovered from other officials who were also responsible for the loss.

vi) Shri Verma preferred an appeal against the order of recovery to the Director Postal Services, Lucknow Region, Lucknow which was rejected vide his memo dated 30.11.89.

vii) The applicant has not availed of the alternative remedy available to him under Rule 29 (Revision) of the CCS (CCA) Rules, 1965.

Parawise comments

4. That the contents of para 1 to 3 of the application need no comments.

f.b.

contd....7

5) 46

-7-

5. That the contents of para 4(1) and para 4(ii) are admitted.

5. That the contents of para 4(iii) of the Original Application are not admitted. It is submitted that the charges were ^{clearly} ~~already~~ and distinctly indicated in the charge-sheet without any ambiguity or vagueness. When the specimen signatures were not received from the transferring Post Office it was obligatory on the part of the applicant to make the payment to the miscreant depositor after proper identification. In this background it is interesting to note that the specimen signatures were obtained on the very day on which the transfer of account was received and on the same day the payment of withdrawal was made to the miscreant depositor. The question of any complaint from the depositor in this regard does not arise as both the accounts were fake and were fraudulently opened on the basis of transferred accounts which were found to have been closed long back or which were not transferred at all.

7. That in reply to the contents of para 4 (iv) and para 4(v) it is stated that Shri Ram Lalit Sonar, for his lapses and negligence in these case, has been dealt with separately. Regarding the averment that the applicant acted in compliance to the instructions of the supervisor, Shri Ram Lalit Sonar, it is stated that during the course of

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enquiry, no such written instructions from Shri Sonar to the applicant were found. The applicant was required to follow the instructions contained in the rules and regulation of the department and for violation of which the applicant was rightly punished by ordering recovery of Rs 8250/- from his pay.

8. That in reply to contents of para 4(VI) and 4(VII) of the original application the submissions made in para 6 above are reiterated. It is further clarified that such type of fraud has been detected in Kheri, Hardoi, Sitapur, BaraBank, Lucknow and Shahjahanpur Postal Divisions to the tune of Rs 11,45,039.65 which had been done in collusion with a number of officials of the Postal department. The modus operandi was to open new ledger cards with huge balance on the basis of fake ~~g~~ transfer of account from other Post Offices when actually these accounts had been closed or had a meagre balance. These fake accounts were again transferred to a third Post Office and from ^{these} ~~their~~ withdrawal were effected without proper identification of the depositor. In these operations a number of Postal officials were found to be involved against whom departmental action has been initiated. In the present case, the loss of Rs 32,775.50 sustained by the Government was due to the negligence and lapse on the part of the applicant also. Had he been vigilant, and followed the relevant rules, the payment to the miscreant depositor could not have been made. The applicant had

file

had to be penalised for his share in the wrong payment of Rs 32775.50. The chargesheet issued to the applicant was elaborate enough to point out his role in the wrong payment and hence it could be avoided if the payment was made after proper identification.

9, That in reply to the contents of para 4(VIII) it is stated that in the punishment order dated 28.4.69, the deponent has discussed in detail the lapses on the part of the applicant which led to wrong payment of Rs 32775.50. While determining the quantum of recovery, the contributory negligence of the applicant was properly assessed.

10. That in reply to the contents of paras 4(IX) and Para 4(X) to the original application it is stated that the appellate authority examined the appeal dated 16.6.69 with due consideration and did not find any reason to interfere in the punishment order of the deponent. The appeal was rejected vide memo dated 30.11.69.

17/11

11. That in reply to the contents of para 4(XI), it is stated that the applicant did not avail of the remedy of filing a revision to the Member(personnel) Postal Service Board, New Delhi under Rule 29 of the CCS(Classification Control & Appeal) Rules, 1965.

8/6

12. That the contents of para 4(XII) of the Original Application need no comments.

13. That the grounds for relief with regard to legal provisions indicated in para 5 of the original application have been adequately commented upon in the foregoing paragraphs.

14. That in reply to para 56 of the Original Application, it is stated that the applicant did not avail of the remedy of filing a revision against the appellate authority's order of 30.11.89 as admissible under Rule 29 of the CCS(CCA) Rules, 1965.

15. That the contents of para 7 of the Original Application need no comments.

16. That in view of the submissions made in the above paragraphs, the relief sought for in para 8 and interim relief prayed for in para 9 of the application are not admissible and may not be allowed.

17. That the contents of para 10, 11 and 12 of the Original Application need no comments.

Wherefore it is respectfully prayed that in view of the submissions made in the above paragraphs, the Hon'ble



Tribunal may kindly dismiss the application with costs
in favour of the respondents and against the applicant.

Lucknow

Dated: 17-11-90

glo-
Deponent.

Verification

I, the deponent named above do verify that the
contents of para 1 to 3 of the Counter reply are true to my
personal knowledge and paras 4 to 17 are believed to be
true by me on the basis of legal advice and record. No part of
it is false and nothing material has been concealed. -
& So help me God.

Lucknow

Dated:

glo-
Deponent.

I certify the deponent who has signed before me

), (See ds 17/11
Dhruv

Cu

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Dagadhar

S. C. M.

17/11

voctm

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A. M. 100 g 1000

(12) AS

Vikram Venne vs Union of India

Annex-1-1

S.B.-10 (b)

Application for Transfer of SBI/CD/ED/TO/RD Accounts

To

Postmaster,

34/2-10 1250/10

I request that my Savings Bank Account, No. 2135 standing on the books of the ~~State Bank of India~~ Post Office Savings Bank may be transferred to the Post Office Savings Bank at ~~Chennai~~

The passbook which has a balance of Rs. 208.05/- (in words) ~~Two hundred and eight rupees and five paise only~~ is submitted herewith ~~to be~~ forwarded to me to the address noted below. Three specimen signatures are given below.

I ~~do~~ hold the following ~~kind of~~ Government Securities in the custody of the Accountant-General, Posts and Telegraphs.

(Kinds of loans specifying the year of loan to be entered here)

பொது நிதியில் இருந்து 4 லட்சம் ரூபாய் கடன் பெற்றுக் கொள்ளப்பட்டுள்ளது. இதை மாற்றி அரசு நிதியில் இருந்து பெற்றுக் கொள்ளப்பட வேண்டும்.

(K) 1572
Signature of Depositor

Address (9) 0 9 1 2 9 2 1
21031, 3757, 4 12 47
K. P. P. S. R. C. (10)

Specimen Signatures

(1) (K) 1572

(2) (K) 1572

(3) (K) 1572

Contractor

Counter signed, ~~Postmaster~~
Date, ~~16-2-1955~~
Counter signed, ~~Postmaster~~
Date, ~~16-2-1955~~

HQIFAL-232-2-6-71-10,00,000.

17/11/55
MS. ORDER

Vikram Varna

Amrakhur - R. 2

Ministry of Industries

Gola Gokera-nath Sub-office

Budgetary C. P. / SYMPTI A/c No 2
102/26

(S.B.)

1- श्रीगवी सुन्दरीदेवी W/O देवी लाल जाधववाल

2- श्यामलाल जाधववाल S/O देवी लाल जाधववाल

उक्त 2 नौजों पर एक सफाई कर शुल्क

Dep

W/D

Total

225/02

500 —

—

500 —

1800-10000 9 1/2 02/

35 —

= 7 1/2

535 —

01/03

535 —

Nil

Accepted
on 8/11/03

attested

(Signature)

16/11/03

(Signature)

12

Am 7^{ten} Juli - Abs

Answer - 2

253T from str 5-gr. rdp/c no 25-2285 vick 07/20/13 on 20/82

बचत-बैंक खाता कार्ड
SAVINGS BANK LEDGER CARD

Jai Prakash Mehta

No. of Account

Class of Account

दरुस

By S. A. R. P. M. 1902.

॥ १ ॥ श्री गणेशाय नमः ॥

2. Laktation mit Eklampsie

Date of birth of minor:
(In case of minor's age)

20. 5/78

अन्य विवरण

Other Particulars

A/c stands at..... 20°

जारी किए गए विधियों की पुस्तिका

॥ श्री गणेशाय नमः ॥

Book and Serial Nos. of
Cheques issued

भजोनीत(तां) व
नाम तथा पता
Name and address
of nominee(s)

[illegible]

AS4

Annexure - 2-9

Union of India & Mr.

(कृष्ण का प्रकार जिसमें कि कृष्ण है वहाँ भा बलम) श्री गुरुदेव
 जिनका... ३५५७... ५७२५०१ जगन्मोहिनी

पता शाश्वत शुभा मिल मिलिवा
२वीं

3: राज कुमारी पिता
मन्ना देव पिता
(1) राज कुमारी पिता
(2) मन्ना देव पिता
(3) राज कुमारी पिता
(2) राज कुमारी पिता

प्रतिष्ठापक पोस्टमास्टर
ताराप
प्रतिष्ठापक पोस्टमास्टर
ताराप
प्रतिष्ठापक पोस्टमास्टर
ताराप

सद्वर्ती पत्र

..... हाकनर खचत देक में के नाम से लिखत
 जमा तं का धातान्तरण बाधर कपस दीक में दारने के
 तारे अ काहेद-पन कन्दनित्त फास-बुकी हेत प्राणत हुआ जिसमे बकाया एकम
 खच (सिर्फ) रूपमें) लिखाई गई है ।
 सायाधि संनयी जमा/जावली जमा ते के नामसे नें जमाधारी को यदि पास-पक सोदाई
 न गई हो तो चाते का धांतरण जिस हाक र कचत दीक में होना पड़ेगा, प्रसा प. यती का धनांतर
 निर्गमिध रूप से जमा करते रहना चाहिए

तारीख-आंहर

पानटनान्टर १०१ स्ताक्षर

आकषर का नाम:.....

A circular stamp with the text 'H. O. A. N. O.' around the top and '12 49' at the bottom. A large 'X' mark is drawn over the stamp.

(f.s) (6)
Answer - f.s

✓ 6. Einzigste

First memt Singapore SB A/c 580341 under AC No. 23 on 12/6/87 ✓

614.44 44 44/Name of Post Office.....

RD joint B

Category 172050 खाता संख्या
Account No.

2481732

graph.
Date of birth.


.....

..... M. Pay on 9/9

Other details

राज्य का भूगोल

पूँज का भुगतान
Payment of Interest

[illegible]A handwritten signature, possibly 'H. H.', is written over a circular stamp. The stamp contains the text 'H. H.' and 'H. H.' in a circular arrangement.

Uni y India - Am

Answer - R-6

write in any name of Post Office

7th Dec 2019

शुक्रवार सायं ५ बजे काटें
POST OFFICE TIME DEPOSIT LEDGER CARD

जमाकर्ता/व्यक्तियों का/की नाम
Name(s) of Depositor(s) राजेश्वरी-विजय (पुदा)

..... 5/10 (3) 576/27 242774

पता/Address.....

नामांकित का नाम तथा पता
Name and address of nominee(s)

Category

File
Type

2011-11-01
 10:00 AM

SSA 21

Date of birth
 जन्म तिथि
 न्यायालय के मामले के सम्बन्ध में In case of minor's

અન્ય બ્યોરે...
Other details

[illegible]

12/4.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW

O.A. No. 216 of 1990.

Vikram Verma

Applicant

Versus

Union of India and others

Respondents

F.F. 14.2.91

REJOINDER AFFIDAVIT TO THE COUNTER AFFIDAVIT FILED BY RESPONDENT
No. 3.

I, Vikram Verma, aged about 31 years, son of Shri Munwar
R/O village Kalia Majhgawan, P.O. Barwan, District Hardoi, and
working as Postal Assistant, Kheri Head Post Office, Kheri,
do hereby state on oath as under -

1. That the deponent is the applicant in the above noted
case and he is well conversant with the facts of the case depos-
ed to in this rejoinder affidavit. The deponent has read the
counter affidavit submitted by the respondent No. 3, fully
understood its contents and is replying to the same as under,-

2. That in reply to the contents of paras^{1 & 2} of the counter it
is stated that no reply has been filed by the respondents
No. 1 & 2 and the instant counter does not furnish any authority
to show that this reply is also for and on behalf of them.

3. That in reply to the contents of para 3 of the counter
giving ^{is} brief history of the case, it is stated that there
is no provision in the Central Administrative Tribunal
(Procedure) Rules 1987 to give a history of the case by the
respondents. Rule 12(2) of the said rules lays down that the
respondents may specifically admit, deny or explain the facts
stated by the applicant in his application and they may also
state such additional facts as may be found necessary for the
just decision of the case. The alleged brief history casesought
to be introduced in the case is an attempt to confuse the case
and misguide the Hon'ble Tribunal. This brief history of the
case was never intimated to the applicant and he was not given

Filed today

22/5/92

Vikram Verma

an opportunity to submit an effective representation in the matter. The case could have been explained in reply to the facts as stated by the applicant in his application. The brief history as stated by the respondent No. 3 is therefore, irrelevant and unwanted.

3(i) That in para 3(i) of the counter it has been alleged that an application for transfer (SB-10(g)) in respect of a fake Pass Book of 5 year time deposit Account No. 2126 of Gola Gokaran Sub Post Office was received at Pallia Sub Post Office on 27.2.87 but the annexure R-1 shows that it was a Saving Bank account and the specimen signatures furnished by the account holder were duly attested by the Sub-Postmaster Pallia and the applicant was under an obligation to act according to the instructions of his supervisor, the Sub Postmaster Pallia. There was nothing in suspect that it was a fake account and had already been closed as alleged and indicated vide annexure R-2 to the counter. The allegations that it was a fake account and had already been closed were not mentioned in the charge sheet and thus the applicant was prejudiced in his defence. The counter still does not clarify how the alleged fakeness of the account, as alleged, could be detected. The circumstances under which the pass book was accepted and forwarded to the Head Office, after allotting a new account number at Pallia Sub-Post Office, were explained by the applicant in his representation to the respondent No. 3 (SPOs Kheri) vide annexure A-5 and also in his appeal to the respondent No. 2 (DPS, Lucknow) A-7 but none of them appreciated the case by proper application of their mind and passed the impugned order of punishment and on appeal prejudicially. No speaking orders were passed by them in the light of the submissions made by the applicant.

3(ii) That the contents of para 3(ii) of the counter, as stated are denied. The applicant acted under the instructions of the Sub Post Master Pallia and bonafidely as explained in his representation and appeal annexure A-5 & A-7 and in the manner expected of any other person of ordinary prudence placed in the

1. Kheri am 1. am 1. am 1. am

A-50

similar circumstances. There was nothing to suspect that it was a fake account. Even the Head Office did not raise any objection as to the correctness of the account, its manner of transfer and specimen signatures forwarded with SB-10(b) as compared to those obtained initially on SB-3. The specimen signatures forwarded with SB-10(b), application for transfer, were duly attested by the Sub-Post Master Pallia and the applicant acted under his instructions. It has also been stated in annexure A-5 and A-7 that Shri K.P. Misra had already an account No. 1719987 opened on 17.7.86 at Pallia Sub office and his identity could not be doubted or questioned by any Postal Assistant specially in view of the fact that his specimen signatures were duly attested by the Sub Post Master personally. Rule 442 of the P & T Manual Vol. 6 part II is very elaborate running in several pages and it was never before nor now in the counter, it has been specified as to which provision of it, the applicant failed to observe as vaguely alleged. The payment was made on the transfer of the account in accordance with rules and procedure after comparing the signature of the applicant with the specimen signatures on record and the applicant ~~with this~~ can not, in any way, be held for any omission or commission in discharge of his duty as a Government servant and he cannot be fairly saddled with any monetary responsibility for the alleged loss to the department.

3(iii) That the contents of para 3(iii) of the counter are denied as stated. The deponent acted in accordance with the instructions of his superior, who countersigned the specimen signatures given by the depositors on 31.3.87 and not on 7.9.87 as wrongly alleged. The deponent acted bonafidely in terms of the instructions of his supervisor, from the time of the receipt of application till the payment was made as he was expected to do and there was no dereliction of duty on his part.

3(iv) That the contents of para 3 (iv) of the counter are denied for want of knowledge. In any way, the deponent was/is not responsible for the fake transfer of account from Sitapur to

Vikram Kumar

Kheri Head Office. The Kheri Head Office did not ~~x~~ challenged the application for transfer and allowed the transfer of account without any hitch and hesitation and for the illegal & fraudulent action of the ^{officials} ~~officials~~ at Sitapur and Kheri the deponent cannot be penalised.

3(v) That the contents of para 3(v) of the counter are vague, indefinite and unspecific and hence they are denied as stated. Rules 442 and 425 of the P & T Manual Vol 6, Part I, quoted by the respondent No. 3 are too wide and lengthy running in several pages and the respondent No. 3 has never specified which provisions of these rules were not followed by the deponent and how it resulted in irregular transfer of the accounts in question and their fraudulent payment. It has also not been clarified by the respondent no. 3 as to how the deponent was responsible for omission or commission of his duty when he acted on the instructions of his supervisor, the Sub-Postmaster on his attesting the specimen signatures and forwarding them alongwith the pass books and application for transfer. The payments were made on the ~~basis of~~ basis of the specimen signatures already verified and attested by the Sub-Postmaster and there was nothing wrong or irregular on the part of the deponent. He acted bonafidely in a manner in which any other person of ordinary prudence would have done. There was no necessity ~~for~~ identification when the specimen signatures and the identification at the time of payment of the party had already been verified and attested by the Sub-Postmaster. It ~~is~~ ^{department} is wrong and malicious to say that the ~~deponent~~ suffered a loss of Rs.32775.50 P due to negligence of the deponent. and he failed to maintain devotion to his duty as required under Rule 3(1)(11) of CCS (conduct) Rules 1964.

3(vi) That the contents of para 3(vi) of the counter are denied as stated. The deponent submitted by his representation dated 8.4.89 (annexure A-5) that the specimen signatures were attested by the SubPostmaster and further action was taken under an obligation to do being his subordinate. The fact that

Vikram Kumar

the specimen signatures were attested by the Sub-Postmaster is a clear indication that the party was well known to the Sub-Postmaster whose instructions the deponent could not afford to repudiate, as the Sub-Postmaster was overall incharge of the Post Office. The recovery ordered to be made from the pay of the deponent is without any clarification as to his nexus and liability in the whole transaction. There is no indication as to the responsibility of the officials involved in the entire transaction and the apportioning of their proportionate liability. The order is thus arbitrary, unjust, malicious, unsustainable, illegal and null and void. In all fairness an elaborate procedure should have been adopted in terms of Director General P ost & Telegraph letter dated 13.2.81 (ann. A-6) and its non compliance has caused a great prejudice to the deponent and vitiated the chargesheet and entire further action taken thereunder and rendered them as null and void.

3(vi) That in reply to the contents of re-numbered para 3(vi) of the counter, it is submitted that the appellate authority did not follow the rules and did not apply his mind to the facts and circumstances of the case and decided the appeal mechanically and prejudicially; It is further pointed out that the appellate ~~author~~ authority i.e. respondent No. 2 has not filed any counter and respondent No. 3 cannot hold any brief for him.

3(viii) That the contents of para 3(vii) of the counter are denied as stated. Rule 29 of CCS(CCA) Rules 1965 does not provide legal remedy. The deponent preferred appeal, which having been rejected has rightly come before ~~the~~ this Hon'ble Tribunal for redressal of his grievance.

4. That the contents of para 4 of the counter need no reply.

5. That para 5 of the counter needs no reply.

6. That in reply to the contents of para 6 of the counter it is denied that the charges were clearly and distinctly indicated in the charge sheet. It is submitted in this regard that the full facts of the case^{as} to how the accounts were transferred fraudulently as now alleged were not contained in

Vikram Kumar

in the chargesheet and the chargesheet was not clear and distinct to state how the deponent figured in the transaction and what ~~was~~ ^{it} was his proportionate liability and who were the other employees responsible for the alleged fraudulent transaction. In all fairness a chargesheet should have been issued in the light of the instructions given by the Director General P & T in his letter dated 13.2.81 (annexure A.6). These instructions clearly lay down that the penalty of recovery can be awarded only if the lapses on his part have either led to the commission of the fraud or misappropriation ^{or} as frustrated the enquiries as a result of which it has not been possible to locate the real culprit. It is obligatory on the part of the disciplinary authority that the charge sheet should be quite elaborate and should not only indicate clearly the nature of lapses on the part of the particular official but also indicate ^{and their particulars and how it can be alleged that but for the lapses on the part of the particular official the fraud or misappropriation would be avoided or that successful enquiries could be made to locate the stage at which the particular fraud had been committed by a particular person.} In terms of the said letter the accused is required to be given ample opportunity to defend himself ^{and} not ~~no~~ ^{only} perfunctory to be ad-judged as guilty as done in the instant case. In absence of a proper and detailed chargesheet as required to be issued in view of the said D.G's letter, the entire disciplinary proceeding taken against the deponent and the order of recovery to be made from his pay is perverse, irregular, malicious and null and void. It has already been stated that the specimen signatures were taken and attested by the sub postmaster and there was nothing to question their ^{authenticity} ~~authority~~ by the deponent, who acted bonafidely on the instructions of the Sub-Postmaster and effected payment on tallying the signature on the withdrawal form with the specimen signatures already taken and attested by the SPM. It is wrong to say that the specimen signatures were obtained the same day when the transfer of account was received and the withdrawal was made. In fact the specimen signatures were obtained at

William V. ...

the time, the application for transfer of account was made i.e. alongwith SB 10(b). Even if there was no complaint, the respondents were/are under obligation to state how the alleged fraud came to notice and what action was taken for tracing the misdoers. The rest of the contents of para under reply is denied and the contents of para 4(iii) of the application are reiterated.

7. That the contents of para 7 of the counter are denied as stated. In normal working, a subordinate has to follow the oral instructions, given by his superior and written instructions cannot be insisted upon. The supervisor, Sri Ram Luit Sunar is not stated to have denied the instructions given by him to accept the specimen signatures duly attested by him and forward the application SB 10(b) for transferring the account, after allowing it a new account number. The deponent was not given proper opportunity to represent his case and cross examine Sri Ram Luit Sunar in case he denied to have given instructions to the deponent as stated by him (deponent). The deponent is not aware of the action taken against the said supervisor. The deponent did not infringe any instruction contained in rules. As counter clerk, he forwarded the application for transfer SB 10(b) in accordance with the instructions of the Sub-Post Master and after transfer made the payment after tallying the signature on withdrawal form with the specimen signatures already taken and attested by the SPM. The respondents have not specified, how the deponent did not follow the instructions of the rules and how it resulted in loss. The matter has been dealt with by the deponent in his representation against the chargesheet and also in his appeal, indicating that there was no lapse on his part and he was/is not responsible for any loss. The order of recovery from his pay is wrong, malicious and illegal. The contents of para 4(iv) and 4(v) of the application are reasserted.

8. That the contents of para 8 of the counter are denied as stated. Reply to para 6 of the counter has already been given in para 6 above. As per assertion of the respondent No. 3,

2.12.2011

there was a fraud to the tune of over 11 lacs and odd with modus operandi to defraud the department; such a matter involving a very huge amount must have been entrusted to the Police, C.I.D./C.B.I., but there is no mention of such an enquiry and the result achieved of by them. However the deponent was in no way responsible for transfer of fake ~~acc~~ amount from the office of origin or its opening in the Head Office. It is strange that the SBCO, whose main duty is the control the accounts and to reconcile them could not detect the alleged manipulations and frauds. It is stated that the chargesheet ~~gix~~ given to the deponent was not elaborate and it was not in terms of the D.G's letter dated 13.2.81 (annexure A-6) and the deponent was not afforded reasonable opportunity for making an effective representation in the matter. The accounts in question were transferred on the applications of the accounts holder on his applications SB 10(b) and his specimen signatures were duly attested by the subpostmaster and the payments were made on the ~~bais~~ basis of the same bonafidely on the approval of ~~the~~ the sub postmaster. There ~~was~~ no lapse on the part of the deponent. It was not disclosed by the respondent No. 3 as to how the alleged fraud was committed and who were the officials who contributed to the commission of alleged fraud and what was their respective liability and how the ~~exproportionate~~ liability was fixed amongst them. If several officials were responsible a common chargesheet should have been given to all of them under Rule 18 of CCS(CCA) Rules 1965 and their respective ~~liab~~ liability made clear in terms of D.G's letter dated 13.2.81. But this was not done and reasonable opportunity was not afforded to the deponent to clear himself and the action of recovery was taken arbitrarily, prejudicially and maliciously. The deponent acted on the instructions of the sub-postmaster who was his supervisor and who had attested the specimen signatures and the payment was made on the basis of the specimen signatures after comparison by him and also by the sub-post master who passed the payment. There was no irregularity on

(A-5)

the part of the deponent who acted bonafidely in the manner in which any other person of ordinary prudence placed in similar circumstances would have done. The deponent has been wrongly and prejududicially penalised without stating his share of liability vis-a-vis to others. It is wrong to say that the chargesheet was elaborate. It was not specified and detailed indicating the involvement of all the officials and the share of liability of each of them. The D.G's letter/instructions dated 23.2.81 are clear on the subject and the chargesheet was not in accordance therewith. The deponent was highly prejudiced and wrongly punished. The rest of the contents of para under reply is denied and the contents of para 4(vi) and 4(vii) are reasserted.

9. That the contents of para 9 of the counter are denied as stated. The deponent had clearly stated the circumstances under which he acted, in his representation dated 3.4.89 (Ann. A-5) and there was no dereliction of duty on his part. It is wrong to say that the contributory negligence of the deponent was properly asserted/assessed. The deponent was in no way responsible for any wrong payment as alleged. The contents of para 4(viii) are reiterated.

10. That the contents of para 10 of the counter are denied. There is no counter from the appellate authority viz. respondent No. 2 and the respondent No. 3 cannot hold any brief on behalf of the appellate authority. The appellate authority did not act properly and he did not apply his mind to the facts and circumstances of the case as required under rule 27 of the CCS (CCA) Rules 1965. The appellate authority was under an obligation to make an objective assessment of the case and issue a reasoned and speaking order which he did not do. Instead he passed a sweeping and cryptic order confirming the punishment wrongly awarded by the disciplinary authority. The appellate order is in violation of instructions issued by the D.G. P & T vide his letter dated 1.10.80 (incorporated in CCS (CCA) Rules 1965 compilation by Sri P. Muthuswamy 1990 2 edition) and the

L. K. Ramani

the same is untenable and sustainable. The appeal of the deponent was wrongly rejected. The contents of paras 4(ix) and 4(x) are reiterated.

11. That the contents of para 11 of the counter are denied. Petition and review are not the statutory rights. The deponent has no other legal remedy except to file the instant application before this Hon'ble Tribunal for redressal of this grievance.

12. That in reply to para 12 of the counter it is stated that the respondent No. 3 has not disputed the assertion made by the deponent in para 4(xii) of his application which affords a strong ground for stay of recovery till disposal of the case.

13. That the contents of para 13 of the counter are denied in view of the submissions already made above, the contents of para 5 and the legal grounds furnished thereunder are reasserted.

14. That the contents of para 14 of the counter are denied as stated and the contents of para 11 above are restated.

15. That para 17 of the counter needs no reply.

16. That the contents of para 16 are denied as stated and the contents of para 8 and 9 of the application are reiterated. The deponent is entitled to the reliefs prayed for in para 8 of his application and the same is liable to be allowed. He is also entitled to the interim relief as prayed for in para 9 of the application.

17. That para 17 of the counter needs no reply.

18. That the prayer made by the respondent No. 3 is baseless and not cogent and the same is liable to be rejected with costs to the deponent.

Lucknow, Dated
January 17, 1991.

Vikram Verma
Deponent.

VERIFICATION

I, the above named deponent, do hereby verify that the contents of paras 1 to 12, 14, 15 and 17 are true to my knowledge and those of paras 13, 16 and 18 are believed to be true.

No material fact has been concealed and no part of this is false. So help me God.

Signed and verified this day of January 1991 at

Lucknow,
Lucknow,
Dated January 17, 1991.

Vikram Verma
Deponent.

I identify the deponent who
has signed before me

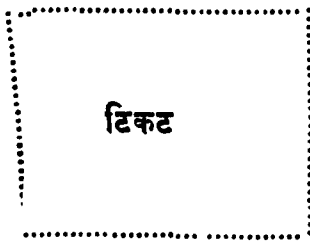
N. K. Verma
Advocate.

महोदय

प्रतिवादी श्रीमान्
[वादी अपीलान्त]
प्रतिवादी [रेस्पाडेंट]

Central Engineering Training Institute
का
Cm-Band, Lucknow

वकालतनामा



टिकट

वादी (अपीलान्त)

Vikram Vee बनाम Central Engineering Training Institute प्रतिवादी (रेस्पाडेंट)

नं० मुकद्दमा 216 1990 पेशी की ता० १६ ई०

ऊपर लिखे मुकद्दमा में अपन से श्री Dr. J. J. Chandra
Adv. C. L. Standing Counsel वकील
Lucknow महोदय एडवोकेट

नाम अदालत
मुकद्दमा नं०
नाम फरीकत

को अपना नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में मुझे स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व ही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारे डिगरी जारी करावे और रुपया वसूल करें या मुलहनामा व इकबालथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा की विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने हस्ताक्षर युक्त (दस्तखती) रसोद से लेवे या पंच नियुक्त करे—महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीक होगी मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या विपक्षी को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं आए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम

Handwritten signature and initials.

हस्ताक्षर.....

साक्षी (गवाह)..... साक्षी (गवाह).....

दिनांक..... महीना..... सन् १६ ई०

स्वीकृत

10-11-92

1037

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH.

M.P.NO. 924 of 1992.

APPLICATION TO FILE SUPPLEMENTARY-AFFIDAVIT.

In

O.A.NO. 216/90.

Vikram VermaApplicant.

Versus

Union of India & Others Respondents.

The respondents above named most respectfully submit
as under :-

That for the facts and circumstances indicated in the
accompanying Supplementary Counter-affidavit it is expedient in
the interest of justice that this Hon'ble Tribunal be gracious
enough to take the same on record.

J. Chandra

(DR.DINESH CHANDRA),

Counsel for Respondents.

F.T.
20 10-92
(303)

(A69)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH.

SUPPLEMENTARY COUNTER-AFFIDAVIT ON BEHALF OF RESPONDENTS.

In

O.A.No. 216/90

Vikram Verma Applicant.

Versus

Union of India & Others Respondents.

I,aged
about.....years, son of late
....., Superintendent of Post Office , Kheri Division,
Kheri do hereby solemnly affirm and state as under :-

(1) That the deponent has read Rejoinder-affidavit filed by
Shri Vikram Verma and has understood the contents thereof.

(2) That the deponent is well conversant with the facts of
the case deposed hereinafter and is filing this Supplementary
Counter-affidavit on behalf of respondents.

(3) That it is expedient in the interest of justice to cleri-
fy the averments made by the applicant in the Rejoinder -
affidavit.

1/2/92
4/10/92

Contd....2/-

(4) That with regard to para 3 of the Rejoinder-affidavit it is stated that a brief history of the case has been given in the Counter-affidavit in order that the submissions made in the Counter-affidavit may be appreciated in their true perspective.

(5) That with regard to para 3(iii) it is denied that the applicant had pasted specimen signature slip against newly opened account No.1720501 on transfer in the S.S.Book of Palia Post Office on 31-8-87. Actually the applicant pasted the specimen signature slip of the fake depositor on 7-9-87 when the fake depositor called on the applicant for withdrawal of Rs.2000/-. In the absence of any instructions from the transferring post office with regard to the specimen signature of the depositor, the withdrawal should have been allowed after proper identification of the depositor and in that case the identifier was responsible to produce the miscreant depositor.

(6) That the applicant has indirectly and obliquely admitted his guilt when he states in para 3(ii) of the rejoinder that :-

" The deponent acted bonafidely in terms of the instructions of his superior from the time of the receipt of application till the payment was made"

And again in para 3(v) that

" how the deponent was responsible for omission or Commission of his duty when he acted on the instructions of his superiors."

(A)

// 3 //

And yet again in para 7 that

" In normal working, a subordinate has to follow the oral instructions given by his superior and written instructions cannot be insisted upon."

From the above it transfers that the applicant acted against the departmental instructions in allowing withdrawals to the fake depositors but he did it as a disciplined and obedient subordinate on the oral instructions of his superior officer.

(7) That with regard to para 8 of the Rejoinder-affidavit it is stated that several officials were involved at different stages in the different lapses in the present fraudulent withdrawals to the tune of Rs. 32,775-50 and so the question of issuing a common Charge-sheet to all of them under Rule 18 of the C.C.S. (C.C.A.) Rules, 1955 does not arise.

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4/4

[Handwritten signature]
(DEPONENT)
4-10-82

—: VERIFICATION :—

I, the above named deponent do hereby verify that the contents of paras of this affidavit are true

[Handwritten signature]
4-10-82

Contd.... 4/-

// 4 //

to my personal knowledge and those of paras are
believed by me to be true based on records and as per legal
advice of my counsel. That nothing material facts has been
concealed and no part of it is false, so help me God.

Signed and verified this the 4th day of October 1992
within the court compound at Lucknow.

Lucknow.

Dated; - 1. 10. 92 -

(DEPONENT)

I identify the deponent who signed
before me.

(ADVOCATE)

On
B.R. Bagan

On

Signature
of the Advocate

Signature
of the Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,

CIRCUIT BENCH, LUCKNOW

O.A. No. 216 of 1990

Vikram Verma ... Applicant

Versus

Union of India and others ... Respondents

Fixed for 18.11.92

SUPPLEMENTARY REJOINDER IN REPLY TO THE
SUPPLEMENTARY COUNTER FILED BY THE RESPONDENTS,
A COPY OF WHICH HAS BEEN GIVEN TO THE
THE APPLICANT'S COUNSEL ON 20.10.92

I, Vikram Verma, aged about 31 years, son of Shri Kunwar, resident of village Katra Majhgawan, P.O. Barwan, District Hardoi AND working as Postal Assistant, Kheri Head Post Office, Kheri, do hereby state on oath as under :-

1. That the deponent is the applicant in the above noted case and is well conversant with the facts deposed to in this rejoinder. The deponent has read the supplementary counter ~~affidavit~~ affidavit furnished to his counsel on 20.10.92, understood its contents, fully and is replying to the same.
2. That the particulars of the person/officer who has sought to file the supplementary counter has not been given, it is undated and not duly verified and in view of these matters, it is vague, incomplete and inadmissible and liable to be ignored.
3. That in reply to the contents of paras 1, 2 and 3 of the supplementary counter, the contents of para 2 above are re-stated.

contd...2

4. That the contents of para 4 of the supplementary counter are denied as stated and the contents of para 3 of the rejoinder affidavit are re-iterated.
5. That the contents of para 5 of the supplementary affidavit are denied as stated. It is wrong to say that the specimen signatures were obtained on 7.9.97 and not on 31.8.87. In this connection averments made by the deponent in para 4(iv) of his application and para 2(1) of his representation dated 8.4.99 (Annexure A-5) and in para 2 of his appeal dated 16.6.89 (Annexure A-7) are re-asserted. There was no question of demanding identification by the deponent as the specimen signatures were obtained by the S.P.M. himself on 31.8.87 and counter-signed by him, pasted to the specimen signature book and the signature on the withdrawal form submitted on 7.9.87 tallied with the specimen signature on record. It may be stated that the withdrawal was allowed by the Sub-Postmaster who did not raise any objection as the specimen signature was already attested and counter-signed by him. There was absolutely no lapse on the part of the deponent who acted according to rules and procedure.
6. That the contents of para 6 of the supplementary counter are emphatically denied. It is wrong and misconceived to say that the deponent has indirectly and obliquely admitted his guilt in paras 3(ii), 3(v) and in para 7 of his rejoinder. This is all

Signature

misrepresentation of facts by the respondents, which is wrong and baseless. The deponent was working under the direct control and supervision of the Sub-Postmaster and was duty bound to act according to his instruction. The Sub-Postmaster had obtained the specimen signatures and got them pasted to the ~~specimen~~ specimen signature book and the withdrawals were to be examined on the basis of the specimen signature on the record, which the deponent did in performance of his duty and no adverse view can be taken against him. It is wrong, prejudicial and malicious to say that the deponent acted against the departmental instructions. The deponent could not allow any withdrawal himself. All the withdrawals were allowed and passed by the Sub-Postmaster after proper scrutiny and after the same was duly passed, the deponent was under duty to make payment. No lapse can, reasonably, be alleged against the deponent who acted bonafidely and in good faith in the normal discharge of his duty. Any other person of ~~extra~~ ordinary prudence would have acted in the same manner in which the deponent did and no motive can be attributed against him. The rest of the contents of para 6 are denied and those of paras 3(ii), 3(v) and 7 of the rejoinder are re-asserted.

7. That in reply to para 7 of the supplementary affidavit, it is stated that the respondents have admitted that several officials were involved at different stages in the different lapses and in view
- contd...4

of this matter it was/is necessary to apprise the various officials of their respective lapses to assess their proportionate liability in the alleged loss. This could be possible only if a proper charge sheet was furnished in accordance with the spirit of the instructions issued by the D.G., P&T, in his letter dated 13.2.81 (Annexure A-6) and Rules 106, 107 and 111 of the P&T Manual Vol. III referred to in para 4(viii) of the application by a common proceeding as provided under Rule 18 of the CCS(CCA) Rules 1965, a photo copy of which is Annexure SR-1. Since proper proceeding was not taken by the respondents as required by rules and departmental instructions, the punishment is vitiated irregular, illegal and void and liable to be set aside.

Lucknow :

Dated : 15.11.92

S. S. Singh
DEPONENT

VERIFICATION

I, the above named deponent, do hereby verify that the contents of paras 1 to 6 of this supplementary affidavit are true to my knowledge and those of para 7 are believed to be true. Nothing material has been concealed or suppressed and no part of it is false.

Signed and verified this 15th day of November 1992 at Lucknow.

Lucknow :

Dated : 15.11.92

S. S. Singh
DEPONENT

I identify the deponent who has signed before me.

M. Dubey
(M. DUBAY), Adv.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALI AHABAD,
CIRCUIT BENCH, LUCKNOW.

O.A. No. 216 of 1990

Vikram Verma

...

Versus

Applicant

Union of India and others

...

...

Respondents

ANNEXURE SR-1

28

C.C.S. (C.C.A.) RULES

[RULE 11

✓ (23) **Imposition of the penalty of recovery.**—(a) *General conditions.*—
In the case of proceedings relating to recovery of pecuniary losses caused to the Government by negligence or breach of orders by a Government servant, the penalty of recovery can be imposed only when it is established that the Government servant was responsible for a particular act or acts of negligence or breach of orders or rules and that such negligence or breach caused the loss.

In the case of loss caused to the Government, the competent disciplinary authority should correctly assess in a realistic manner the contributory negligence on the part of an officer, and while determining any omission or lapses on the part of an officer, the bearing of such lapses on the loss considered and the extenuating circumstances in which the duties were performed by the officer, shall be given due weight.

The amount of recovery of loss ordered as a measure of penalty can be reduced by the punishing authority at any later stage if it is found that the amount of loss sustained by the Government is less than that originally calculated. If, however, the loss is subsequently found to be nil, the case has to be reviewed by the competent authority for imposing an appropriate penalty. That authority will not, however, be competent to impose a penalty higher than that of recovery.

[Rules 106, 107 and 111 of P. & T. Manual, Vol. III.]

(b) *Manner in which charge-sheet to be framed.*—As is well known the penalty of recovery from pay is a special type of penalty which cannot be awarded in all types of misconduct. Rule 11 (3) of the C.C.S. (C.C.A.) Rules, 1965, clearly prescribes that the penalty of recovery from pay of the whole or part of the loss caused by the Government servant to the Government by negligence or breach of orders on his part can be awarded to him. Thus, the rule itself makes it clear that this penalty can be awarded only in a case where it has been established that the negligence or breach of orders on the part of a Government servant has led to the loss to the department. Instructions were also issued in the past bringing the special provision of the rule to the notice of all concerned, but it has been observed that the requirement of the rule could not be properly appreciated by most of the disciplinary authorities. In a recent Court case, an order of penalty of recovery has been set aside on the ground that the disciplinary authority merely established certain lapses on the part of the Government servant without explaining the facts leading to the loss and the manner in which the lapses on the part of the Government servant had a link with the loss sustained by the department. No appeal has been filed in this case as it was found that it would not be possible to sustain the order of the penalty of recovery which was not consistent with the rule referred to above. A number of frauds or misappropriations are committed and it is not always possible to recover the entire amount of loss from the real culprit. In some cases, it is not even possible to locate the real culprit and accordingly it becomes impossible to take action against the subsidiary offenders with the primary object of recovering loss sustained by the

W. D. N. S.

department. It should be clearly understood by all the disciplinary authorities that while an official can be punished for good and sufficient reasons, the penalty of recovery can be awarded only if the lapses on his part have either led to the commission of the fraud or misappropriation or frustrated the enquiries as a result of which it has not been possible to locate the real culprit. It is, therefore, obligatory that the charge-sheet should be quite elaborate and should not only indicate clearly the nature of lapses on the part of the particular official but also indicate the *modus operandi* of the frauds and their particulars and how it can be alleged that but for the lapses on the part of the official, the fraud or misappropriation could be avoided or that successful enquiries could be made to locate the stage at which the particular fraud had been committed by a particular person. This will enable the accused not only to submit a defence against the allegation brought against him but also to explain how the lapses had not contributed to the loss in any manner. The disciplinary authority is also required to give a clear finding in the punishment order on both these points. If it is not done, the order, awarding the penalty of recovery will be liable to be set aside. The Heads of Circles and Administrative Offices, etc., are requested to bring these instructions to the notice of all concerned so that the disciplinary proceedings for a penalty of recovery may not suffer from a procedural flaw. ✓

[D.G., P. & T. No. 114/176/78-Disc. II, dated the 13th February, 1981.] ✓

(c) *Monetary limit.* It is clarified for all that the limit of Rs. 1000/-

Adnan

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(A-9)

18. Common Proceedings

(1) Where two or more Government servants are concerned in any case, the President or any other authority competent to impose the penalty of dismissal from service on all such Government servants may make an order directing that disciplinary action against all of them may be taken in a common proceeding.

NOTE.—If the authorities competent to impose the penalty of dismissal on such Government servants are different, an order for taking disciplinary action in a common proceeding may be made by the highest of such authorities with the consent of the others.

(2) Subject to the provisions of sub-rule (4) of Rule 12, any such order shall specify—

- (i) the authority which may function as the disciplinary authority for the purpose of such common proceeding;
- (ii) the penalties specified in Rule 11 which such disciplinary authority shall be competent to impose;
- (iii) whether the procedure laid down in Rule 14 and Rule 15 or Rule 16 shall be followed in the proceeding.

GOVERNMENT OF INDIA'S INSTRUCTION

(1) Procedure of enquiry when two Government servants accuse each other.—In a recent case, two Government employees working in the same office made complaints against each other. The disciplinary authority initiated departmental proceedings against both the employees under Rule 17 of the C.C.S. (C.C.A.) Rules. The question whether it is legally permissible to enquire into the conduct of the accused and the accuser in one joint proceeding was examined in consultation with the Ministry of Law. Cross complaints arising out of the same or connected incident or transaction are not uncommon, and occur frequently in criminal cases. The Code of Criminal Procedure is silent with regard to the procedure to be adopted in such cases. The general principle as laid down by the Courts is that the accused in cross cases should be tried separately and that both the trials should be held simultaneously or in quick succession so as to avoid conflicting findings and different appraisal of the same evidence. On the analogy of the criminal law practice and procedure, a joint proceeding against the accused and accuser is an irregularity which should be avoided. This should be noted for future guidance.

[G.L., M.H.A., Letter No. 6/98/63-AVD, dated the 13th June, 1963.]

A joint proceeding against Government servants working in the same office who made complaint against each other should be avoided.

[Para. 19, P. & T. Manual, Vol. III.]

Adm and

*Submitted
True copy
M. Duhany
Bdr*