

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, *L.K.O.* BENCH

OA/TA/RA/CP/MA/PT 93 of 20 90

C. M. alpha.....Applicant(S)

Versus

U.O.I. 8 223. Respondent(S)

INDEX SHEET

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
①	Check list	1 to 2
②	order sheet	3 to 4
③	Final Settlement dt. 29.7.92	3 to 11
④	copy of o.A.	12 to 23
⑤	Annexures with Vakalatnama	24 to 40
⑥	c.A.	41 to 50
⑦	R.A.	51 to 62

Certified that the file is complete in all respects.

Certified that the file is complete in all respects.
B 8 c file weeded and destroyed. *John*
76-6-12

Signature of S.O. *K. Galvin*

Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX-SHEET

CA. 93/90 L
Cause Title of 199

Name of the parties

O. N. Ohg

Applicant.

Versus

U.O.G. (Postal)

Respondents.

Part A, B, C.

Page.

Sl. No.	Description of documents	Page.
①	Check List	B1 - B2
②	Index Sheet	B3 - B4
③	Judgement	B5 - B11
④	Petition Copy	B12 - B23
⑤	Annexure -	B24 - B40
⑥	Parties -	B41 - B50
⑦	Rejoinder -	B51 - B62

B. Date

Petition Copy
Bureau
Center
Delhi

10/10/03
8/11/03

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Date of Recd. 28-3-80
Date of Regd. by Registry

Deputy Registrar

Registration No. 93 of 1980 (S)

APPLICANT(S)

C M ojla

RESPONDENT(S)

G.O.

Particulars to be examined

Endorsement as to result of examination

1. Is the applicant competent ? *Y*
2. a) Is the application in the prescribed form ? *Y*
- b) Is the application in paper book form ? *Y*
- c) Have six complete sets of the application been filed ? *Y*
3. a) Is the appeal in time ? *Y*
- b) If not, by how many days it is beyond time ? *Y*
- c) Has sufficient cause for not making the application in time, been filed ? *Y*
4. Has the document of authorisation/ Vakalatnama been filed ? *Y*
5. Is the application accompanied by S.O./Postal Order for Rs.50/- *Y*
6. Has the certified copy/copies of the order(s) against which the application is made been filed ? *Y*
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? *Y*
- b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? *Y*
- c) Are the documents referred to in (a) above neatly typed in double space ? *Y*
8. Has the index of documents been filed and paginating done properly ? *Y*
9. Have the chronological details of representation made and the cut come of such representation been indicated in the application ? *Y*
10. Is the matter raised in the application pending before any court of law or any other Bench of Tribunal ? *No*

Particulars to be ExaminedEndorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ? *Y*

12. Are extra copies of the application with Annexures filed ?
 a) Identical with the Original ? *Y*
 b) Defective ?
 c) Wanting in Annexures
 Nos. _____ pages Nos. _____ ? *Y*

13. Have the file size envelopes bearing full addresses of the respondents been filed ? *Y*

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 ?
 a) Concise ? *Y*
 b) Under distinct heads ? *Y*
 c) Numbered consecutively ? *Y*
 d) Typed in double space on one side of the paper ? *Y*

18. Have the particulars for interim order prayed for indicated with reasons ? *Y*

19. Whether all the remedies have been exhausted. *Y*

dinesh/

20.4.90

No Sittings Advt to 28.2.91

⑤

28.2.91. No sitting, case is adjourned
to 29.4.91 for hearing. Sf

⑥

29.4.91

No Sittings Advt 16.8.91

⑦

16.8.91

Hon. Mr. Justice K. Mathew V.C.
Hon. Mr. K. Obayya - P.M.

CA/RA have been
reliefed

S.F.H

L
19/8

None present for the both parties due
to strike of U.P. Bar Council, case is
adjourned to 26.8.91 for hearing.

✓
v.c.

⑧

28.8.91

No Sittings adj 23.10.91

2

23.10.91

None present for the parties,
case is listed for final hearing
on 9.1.92

S. N. Prasad

Member Secy.

✓
Kausel Kumar
Vice Chairman

9.1.92

No Sittings Advt to 18.3.92

2

Dated: 10.7.92

Hon'ble Mr. S.N. Prasad, J.M.

Case called out Shri Shailendra Mishra learned counsel for the applicant and Shri V.K. Chaudhary learned counsel for the respondents are present. Heard the ^{arguments of} learned counsel for the parties. Judgement reserved.

(rka)

J.M.

29.7.92

Hon'ble Mr. S.N. Prasad J.M

Judgement pronounced today
(in the open Court)

J.M.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

O.A. NO 93/90 199 (L)

T.A. NO _____

Date of Decision 29.7.1992

Chandra Prakash Singh PETITIONER.

Shailendra Mishra Advocate for the Petitioner(s)

V E R S U S

Unispol India & others RESPONDENT.

V.K.Chopra Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. S.N. Prasad, Member Judicial.

The Hon'ble Mr.

1. Whether Reporter of local papers may be allowed to see the Judgment?
2. To be referred to the reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether to be circulated to other benches?

Vice Chairman/Member 29.7.92

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 93 of 1990(L)

Versus

1. Union of India, through the secretary, Telecommunication (Postal), Parliament Street, New Delhi.
2. Senior Superintendent of Post Office, Pratapgarh.
3. Director of Postal Services, Allahabad.

• • • • • Respondents

Hon'ble Mr. S.N. Prasad, Member (J)

The applicant has approached this tribunal under section 19 of the Administrative Tribunals Act, 1985 with the prayer for setting aside the impugned order dated 10.7.1989 (annexure-4) whereby the recovery of Rs. 11525.70 from the pay of the applicant, Shri Chandra Mauleshwar Ojha P.A. the then S.P.M. Laxmanpur S.O., in 35 equal instalment of Rs. 320/- per month and the last instalment of Rs. 325.00 and also for quashing the order dated 31.10.1989 passed by the appellate authority (respondent No. 3) (annexure-1).

2. Briefly, stated the facts of the above case, inter-alia, are that the applicant was employed as Sub-Post Master, Laxmanpur Sub-Post Office in the District of Pratapgarh w.e.f. 1.5.1988. There was no provision of any residence for the sub Post Master in the office premises and to guard the Post Office at night, a contingency paid Chaukidar was employed on a monthly allowance of Rs. 923/- In the night between 21/22.9.88, the ~~was~~ theft committed and cash amounting to Rs. 14,525.70 were stolen and in the next morning the Chaukidar came to know about the above theft which ^{had} ~~was~~ taken place in his absence during the above night.

Contd.. 2/-

:: 2 ::

The matter was reported to the respondent No. 2 and 3 who made necessary enquiries and F.I.R. was lodged at the police Station concerned but no fruitful result was achieved. The Chaukidar concerned in his statement before the Sub Divisional Inspector of Post Offices of Pratapgarh West Sub Division ~~admitted his~~ admitted his negligent absence from duty and immediately credited a sum of Rs. 3000/- to make good a portion of the loss caused to the government through his gross negligence by absenting himself from his duty overnight and for the rest of the loss, he promised to make good in monthly instalments from the allowance paid to him. But the Chaukidar concerned was very closely related to one Shri K.C. Misra, Senior Supdt. of ~~post~~ ^{office} Faizabad Division, Senior Supdt. of RMS ~~Division~~, Lucknow, who forbade him from making any further deposit towards completion of the impugned loss and gave him an assurance that matter should be hushed up against the aforesaid Chaukidar concerned and as such the respondent No. 2 in consultation with aforesaid Shri K.C. Misra but the respondent No. 2 at the instance of and in ~~collusion~~ with aforesaid Shri K.C. Mishra began to find fault with the S.P.M. (the applicant) to ascertain in which way the applicant be implicated and dragged into the commission of theft in the night. A charge sheet was issued against the applicant and though the applicant refuted the allegations by submitting a representation (vide annexure-5) but the respondent No. 2 did not agree with the plea of the defence and ultimately the impugned order dt. 10.7.89 (annexure-4), as indicated above, was passed by the respondent No. 2 arbitrarily, illegally and against the rules and appeal which was preferred by the applicant against the

:: 3 ::

by the applicant against the impugned order dated 10.7.89 was rejected and as such the applicant has filed this application for the reliefs sought for, as mentioned above.

3. The respondents in their counter-affidavit have resisted the claim of the applicant with the contentions, inter-alia, that the applicant while working as S.P.M. Laxmanpur Post Office, Pratapgarh on 21.9.1988, after closing hours, he put the cash in the small cloth bag and kept it in the iron-chest embeded in the Post office alongwith other valuable things, and retained cash of Rs. 14525.70 against the maximum sanctioned balance of Rs. 3000/-.. The lock of iron chest and the P.O. intergate was locked by the applicant with the help of E.D. packer Shri Shambhu Nath and C.P. Chaukidar had not attended the post office at the time of closing the post office, and the applicant left the post office without awaiting for the arrival of the said C.P. Chaukidar at about 1700 hours. The theft occurred in the Laxmanpur Post Office ~~xx~~ during the night intervening between 21/22.9.88 and the cash amounting to Rs. 14525.70 was stolen by the thief ~~xx~~. F.I.R. was lodged and the case was registered at P.S. Jethawa, but the police investigation was ended with Final Report No. 49 dated 14.11.88. The applicant was proceeded against under rule 16 of CCS(CCA) Rules, 1965 vide office memo dated 4.4.89 for the misconduct or misbehaviour on his part, he was given full opportunity to defend his case and was required to submit his representation if any and after careful consideration of the whole case and also after considering defence version, the applicant was found fully responsible for the loss of the Government money amounting to Rs. 14,525.70/-.

(28)

:::44:::

Keeping in view ~~of~~ the facts and circumstances of the case, the applicant was saddled with the responsibility for recovery of Rs. 11525.70 against him by the impugned order dated 10.7.89. It has further been contended that the above impugned orders dated 10.7.89 (annexure-4) and 31.10.89 (annexure-1) have been passed by the respondents No.2 and 3 respectively in accordance with the relevant rules, regulations and procedure and there is no illegality, and invalidity in the above impugned orders and as such the application of the applicant is liable to be dismissed with cost.

4. The applicant has filed his rejoinder-affidavit wherein he has re-iterated almost all those grounds and view points as mentioned in his main application.

5. I have heard the learned counsel for the parties and have thoroughly gone through the records of the case

6. The learned counsel for the applicant while drawing my attention to the contents of the application, counter-affidavit, rejoinder-affidavit and the papers annexed thereto has argued that there is no mistake or fault on the part of the applicant as the applicant was the Sub-Post Master and entire responsibility for watching and preventing any occurrence of theft, etc, was the responsibility of the Chaukidar concerned, and has further argued that since the amount of Rs. 14525.70 was retained by the applicant to meet the urgent prospective payment to the depositors and as such there was compliance of the mandatory provisions of rules 102(B) of P&T Man. Vol. VI, Pt. II of the aforesaid order which occurred due to negligence

Chowkidar concerned; ^{and} has further argued that there is discrepancy in the amount of realization by way of 35 equal instalments ^{which} go to make total of the amount ^{being instalment of Rs. 320/- each} to the tune of Rs 11,200/- whereas the entire amount ordered to be recovered is to the tune of Rs 11,525.70 and as such the application of the applicant should be allowed and the reliefs sought for be granted.

7. The learned counsel for the respondents, while adverting to the pleadings of the parties and to the papers annexed thereto and while reiterating the viewpoints as mentioned in the Counter, has argued that there was no compliance of the mandatory provisions of Rule 102(B) of P&T Manual, Volume 6 part III, as the applicant retained the cash of Rs 14,525.70 on the crucial date i.e. 21.9.88 against the maximum sanctioned balance of Rs 3,000/-, and has further argued that the applicant was habitual in keeping more amount than the maximum sanctioned and permissible balance of Rs 3,000/- as would be obvious from the perusal of Annexure A-4; and has further argued that the Chowkidar concerned, keeping in view the provisions contained under rule 102 (B) of P&T Manual, Volume 6, part III, ~~Chowkidar concerned~~ was responsible for the maximum sanctioned balance of Rs 3,000/- only and that is why a sum of Rs 3,000 has been recovered from the chowkidar concerned out of the entire amount of Rs 14,525.70 which was stolen during the night of 21/22.9.88 by the thieves, and that is why the applicant has been held responsible only for the remaining amount of Rs 11,525.70 after realizing Rs 3,000 from the Chowkidar concerned; and has further argued that the impugned orders were passed by the authorities concerned, legally

(A)

and properly and in accordance with the extant rules and procedure, and there was no illegality of any kind; and has further argued that every opportunity was given to the applicant to defend himself; and as such there is no illegality of any kind in the impugned orders; and has further argued that there is no discrepancy in the amount of realization by way of 35 instalments as the instalments may vary and the rest 34 instalments be of equal amounts for arriving at the accurate amount of Rs 11525.70 and this has been clearly specified in the impugned order Annexure-4 at the bottom and thus, this being so, the application of the applicant should be dismissed with costs.

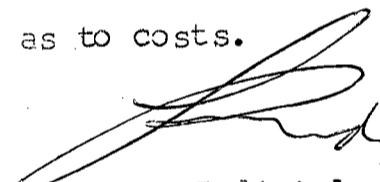
8. This is noteworthy that the learned counsel for the respondents has produced before me a true attested copy of the Memo No.G/AB/86-87 from the office of Senior Superintendent of Post offices, Pratapgarh Division dated 20.11.86 whereby the minimum and maximum balance of various offices of that division, have been fixed and a perusal whereof shows that at serial No. 22 in respect of sub post office Laxmanpur maximum limit has been specified as 3,000 and minimum as 1,000/- A perusal of Annexure A-4 and others papers and material on record reveals that on 21.9.88 the applicant had retained Rs 14,525.70 incash which far in excess the sanctioned limit of Rs 3,000/- and for that he had no plausible explanation and as such I find, after scrutinising the entire material on record and keeping in view the circumstances of the case that the applicant was at fault in retaining the aforesaid amount on 21.9.88

✓

9. This is also noteworthy that a careful perusal of Annexure 4 clearly shows that in order to recover the entire amount of Rs 11,525.70 from the pay of the applicant in 35 equal instalments, there is clear mention that the ~~last~~ ^{last} instalments would of Rs 325.70 Thus, I find no discrepancy as argued by the learned counsel for the applicant.

10. Thus, from the foregoing discussion and after considering all the aspects of the matter and keeping in view all the facts and circumstances of the case, I find that the application of the applicant is devoid of merit and consequently the same is liable to be dismissed.

11. In the result the application of the applicant is dismissed without any order as to costs.


29.7.92
Member Judicial.

Lucknow: Dated 29.7.92.

Central Administrative
Circuit Bench, Lucknow
Date of filing
Date of Receipt by Court
29-3-90 (2)

Deputy Regd.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,
CIRCUIT BENCH, LUCKNOW
(DISTT. PRATAPGARH)

O.A. No. 93 (L) of 1990 (L)

Chandra Mauleshwar Ojha Applicant

Versus

The Union of India and others Respondents

I N D E X

S1. No.	Description of paper	Page No.
1.	Application under Section 19 of the Administrative Tribunal Act, 1985	1 to 11
2.	<u>Annexure No. 1</u> True copy of all appellate order rejecting the applicant's appeal	12 - 14
3.	<u>Annexure No. 2</u> True copy of memo of appeal filed by the applicant before respondent No. 3 against recovery order	15 - 19
4.	<u>Annexure No. 3</u> True copy of charge-sheet dated 4.4.89 issued by respondent No. 2 to the applicant.	20 - 21
5.	<u>Annexure No. 4</u> True copy of Recovery order of Rs.11,525.70 in 35 equal instalments of Rs.320- and the last one of Rs.325.70.	22 - 25
6.	<u>Annexure No. 5</u> True copy of the applicant's representation refuted the allegations.	26 - 27
7.	<u>POWER Postal Order</u>	28
8.		29

Lucknow; Dated:

(S. B. MISRA), A
COUNSEL FOR THE APPLICANT

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW

(DISTT. PRATAPGARH)

O.A. No. 93 (L) of 1990

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of filing 29-3-89

Date of Receipt by Post

Deputy Regd.

Chandra Mauleshwar Ojha, S/o Shri Ambika Prasad Ojha
R/o V. Mahrajka Purwa, P.O. Asrahi, Jhansi, Dist. Pratapgarh.
Postal Assistant, Pratapgarh Head Office, Pratapgarh.

... Applicant

Versus

1. The Union of India, through the Secretary, Telecommunication (Postal), Parliament Street, New Delhi.
2. Senior Superintendent of Post Offices, Pratapgarh.
3. Director of Postal Services, Allahabad.

... Respondents

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT, 1985

1. This application is being made against the penalty of recovery of Rs. 11,525.70 P. imposed vide the Senior Supdt. of Post Offices, Pratapgarh, Memo No. F-6/88-89 dated 10.7.89 on the applicant as also the Appellate order passed by the Director, Postal Services, Allahabad, vide his number Vig/APP-111/89 dated Allahabad, the 31.10.89 communicated to the applicant much later, dismissing the appeal that had been preferred against the above said order by way

Chandra Mauleshwar Ojha of penalty of recovery of the above amount.

2
P

2. The applicant declares that the subject matter of the orders against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal.

3. The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case :-

(i) The applicant was employed as Sub-Post Master, Lachmanpur Sub Post Office in the District of Pratapgarh w.e.f. 1.5.88. There was no provision of any residence for the Sub Post Master in the office premises and to guard the post office at night, a contingency paid Chaukidar was employed on a monthly allowance of Rs. 923/-.

(ii) In the night of 22 21/22-9-88, the said Chaukidar deserted his duty on the pretext of feeling some bodily pain all of a sudden and a theft took place by breaking open the main doors of the office, damaging its 'Kundha' - chain. In the theft, cash and valuables amounting to Rs. 14,525.70 P. were involved. On the next morning the said C.P. Chaukidar came to know about the theft which had taken place in his absence in the night as above said.

(iii) The matter was reported to the respondents Nos. 2 and 3 who made necessary inquiries and a report was lodged with the Police Station, Jethwara by the applicant, the Sub-Post Master, but to no fruitful result.

30

3.

(iv) In his statement before the Sub Divisional Inspector of Post Offices of Pratapgarh West Sub Division, the said C.P. Chaukidar admitted his negligent absence from duty and immediately credited a sum of Rs. 3000/- to make good a portion of the loss caused to the government through his gross negligence by absenting himself from his duty overnight and for the rest of the loss, he promised to make good in monthly instalments from the allowance paid to him.

(v) In this connection it may be mentioned that the said C.P. Chaukidar was and is very closely related to one K.C. MISRA, Senior Supdt. of Post Offices, Faizabad Division, Senior Supdt. of R.M.S., O Division, Lucknow, who forbade him from making any further deposit towards completion of the impugned loss and gave him an assurance that he (Shri K.S. Misra) would set the matter right, as the Respondent No. 2 was his friend and the respondent no. 3 would also not act against him.

(vi) The respondent No. 2 gave a show cause notice to put the said C.P. chaukidar off-duty, which the respondent no. 3 did not accept in connivance with said Shri Misra, declaring that the C.P. Chaukidar cannot be put off duty under rule 9(1) of the E.D.A. Conduct & Service Rules, 1964, and directed that the said C.P. Chaukidar be put back on duty, but the remaining amount of loss of Rs. 11,525-70 P. laid as a hindrance to put him back on duty.

(vii) To achieve their goal, the respondent no. 2, in consultation with said Shri Misra began to find fault with

Chandra Mauleshwar Singh

the S.P.M. (the applicant) to ascertain in which way the applicant be implicated and dragged into the commission of theft in the night ~~21x22-9-88~~ 21/22-9-88, for which the respondent no. 2 assessed as to why a sum of Rs. 14,525.70 P was retained in the office when there was no justification for meeting the office liabilities before the date and time of occurrence, as in the charge sheet filed herewith as Annexure 3 to this application.

(viii) The applicant refuted the allegations by submitting a representation filed herewith as Annexure - 5 to this application and denied them as false and having no connection with the theft which took place due to the gross and negligent absence from duty of the said C.P. Chaukidar. A clear justification of the said cash amount to meet the office liabilities of Rs. 20,152/- before the date of theft as against Rs. 18,952/- as alleged in the charge sheet above said. It was made ~~clear~~ clear in the representation that the sanctioned warrant of payment for Rs. 16,152/- or for closure of a R.D. Account No. 310285 plus Rs. 3000/- being the amount of six money orders in deposit alongwith Rs. 1000/- being the sanctioned minimum. Thus, there was a total liability of Rs. 20152/- against the cash of Rs. 14525.70 P retained in the office.

(ix) The respondent no. 2, however, did not agree with the plea of the defence and made the order of recovery of Rs. 11,525.70 P in 35 equal instalments of Rs. 320/- per month, the last instalment of Rs. 325.70 P, which gives an incorrect figure as noted below

$$\text{Rs. } 320 \times 35 = \text{Rs. } 11,200.00$$

$$\text{Rs. } 325.70 \text{ P} \times 1 = \text{Rs. } 325.70 \text{ P.}$$

$$\text{Total : 36 instalments} = \text{Rs. } 11,525.70 \text{ P}$$

Chandramallayya
C.P.

5.

Now, if only 35 instalments are to be taken into account, the following amount is arrived at :-

Rs. 320 x 34 = Rs. 10,880.00

Rs. 325.70 P x 1 = Rs. 325.70 P

Total: 35 instalments = Rs. 11,205.70 P

This recovery order is filed herewith as Annexure - 4 to this application.

(x) Against the above said recovery order which was arbitrary, unjust and invalid, the applicant filed an appeal before the respondent no. 3 and the memo of this appeal is filed herewith as Annexure - 2 to this application.

(xi) The respondent no. 3, as per his calculated and planned approach, rejected the appeal without assigning any valid reason or dismissing all the points raised in the said memo of appeal. This appellate order is filed herewith as Annexure - 1 to this application.

(xii) The respondents Nos. 2 and 3, in order to please the said Sri Misra, have now put the said C.P. Chaukidar back on duty because the loss involved in the theft was to be fully recovered in an arbitrary manner from the applicant who has been transferred to the Pratapgarh Head Office without completion of his tenure at Lachmanpur Sub Post Office, so that there could be none to oppose the evil and motivated action of the respondent. It is also learned that the said C.P. Chaukidar has obtained his appointment by playing a fraud in as much as changed his name from Shambhu Narain to Shambhu Prasad. The recovery order (Annexure-4) passed by the Respondent No. 2 and the appellate order (Annexure - 1) dismissing the appeal passed by the respondent no. 3 are being

challenged on the following grounds :-

5. (a) Because there are certain apparent errors in the calculation of amounts of recovery and the number of instalments determined by the respondent no. 2, whether there are 35 or 36 instalments. This error is apparent on the face of the record and the respondents have overlooked it deliberately to create confusion.

(b) Because the above said orders were passed only to benefit the C.P. Chaukidar ignoring his negligently deserting his duty of guarding the Sub Post Office overnight.

(c) Because the voluntary confession of his guilt of desertion of his duty on the fateful night and immediate deposit~~s~~ of Rs. 3000/- as a part of the loss caused by theft and his promise to make good the rest of the amount in the monthly instalments have been unheeded and ignored.

(d) Because the respondents have been persuaded by said Shri K.C. Misra who is now S.P.M., O Division, R.M.S., Lucknow, not to enforce further the recovery of loss against the C.P. Chawkidar who is closely related to him.

(e) Because the respondents, on the recommendation of the said Shri K.C. Misra have acted malafide by taking back the said C.P. Chaukidar on duty after making premature transfer of the applicant to a distant place of having no one to object against the evil performance of the respondents.

(f) Because the recovery order is arbitrary, capricious and a sort of thrust since the liabilities of the office had no concern with the act of theft which was admittedly

due to the negligence of said C.P. Chaukidar.

(g) Because the said C.P. Chaukidar ~~xxxx~~ warranted a deterrent action against him and a penalty for desertion from duty but the respondents have let him off on the recommendation of said Shri K.C. Misra.

(h) Because the orders passed by the respondents Nos. 2 and 3 are malafide and prejudicial to the applicant.

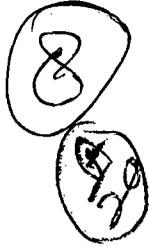
(i) Because the respondents have invalidly brushed aside the real facts and circumstances of the theft and have thus violated the principles of natural justice.

(j) Because the respondents nos. 2 and 3 have ignored the fact that when the depositor of the R.D. account informed the applicant that he would take the payment in a day or two, a remittance of Rs. 10,000/- was made to Pratapgarh head office on 17.9.88 in the hope that if the depositor appeared to take the payment, the funds could easily be replenished by daily collections and from the Head Office too..

(k) Because the respondents have committed serious error of law in construing the rules regarding regulation of funds and have incorrectly come to the conclusion that there should have been no retention of the cash amount even to make payments of the money orders for Rs. 3000/- remained unpaid on 21.9.88.

(l) Because the said respondents have ignored the rules that an office should retain cash equal to liabilities plus the minimum sanctioned for the office.

(m) Because the respondents have taken an erroneous view and interpretation of rules alleged in the Annexure -



- (n) Because the respondents have erred in taking an adverse view of the bonafide performance of the applicant only to help and benefit the C.P. Chaukidar and to hide and conceal his inexcusable guilt.
- (o) Because the respondents have not been able to implicate the applicant in the said theft which took place due to the said absence from duty of the said C.P. Chaukidar.
- (p) Because the said C.P. Chaukidar could not support his absence from duty due to his alleged illness in any manner. This goes to show that the said C.P. Chaukidar had himself a hand in the theft as otherwise he would not have paid Rs. 3000/- immediately and would not have promised to pay the balance amount of the theft. It was due to the evil advice of said K.C. Misra that prevented the C.P. Chaukidar to pay the balance amount of the theft.
- (q) Because the supply of funds and requirements of a Sub Post Office were judged by the Head Office which had no concern with the impugned theft which had a separate cause for its occurrence for which the applicant was not responsible.
- (r) Because it is simply malafide on the part of the respondents in not making the recoveries from the said C.P. Chaukidar who was solely responsible and liable for the commission of the theft and who could also have a direct hand in the theft.
- (s) Because the respondents ignored the fact that the said C.P. Chaukidar had promised to make good the loss caused due to the theft.

(t) Because the respondents appointed a fictitious person as C.P. Chaukidar who had wilfully and malafide changed his name from Shambhu Narain to Shambhu Prasad.

6. The applicant filed an appeal against the order of penalty and consequently the recovery of the amount of theft from the applicant but the same was invalidly rejected vide Annexure 1 above said.

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

8. (I) The order of penalty and the recovery of the amount of theft against the applicant vide Annexure - 4 be quashed.

(II) The order Annexure - 1 passed by the Appellate Authority, namely, the respondent No. 3 be also quashed and the applicant be held innocent.

(III) Costs of this application may be allowed to the applicant against the respondents.

9. (i) The recovery of the amount of theft from the applicant vide Annexure - 4 be stayed till the decision of this case.

10
10

(ii) The office file of the appointment of the C.P. Chaukidar relating to the instant case containing his statements, representation to the respondent no. 3, the inquiry report and a copy of the F.I.R. lodged with the S.P. Jethwara, be summoned by this Hon'ble Tribunal from the respondents No. 2, and be kept under sealed cover in this Hon'ble Tribunal for further reference.

(iii) The order of transfer of the applicant from Sub Post Office, Lachmanpur, Distt. Pratapgarh to the Pratapgarh Head Office as a Postal Assistant be recalled and cancelled and the applicant be again posted as S.P.M., Lachmanpur S.P.O., Distt. Pratapgarh with immediate effect.

10. The applicant desires that since he is represented by a counsel, he may be personally heard at the admission stage as also at the time of the final hearing of the case.

11. Crossed Postal Order for Rs. 50/- No. 8 02 409897 issued by the High Court Post Office on 29.3.90 in favour of the Registrar, Central Administrative Tribunal, Allahabad.

contd ... 11.

11.

11

12. (a) Annexure - 1
(b) Annexure - 2
(c) Annexure - 3
(d) Annexure - 4
(e) Annexure - 5

Chandramauleshwar
APPLICANT

I, Chandra Mauleshwar Ojha, son of Shri Ambika Prasad Ojha
aged about 50 years, working as Postal Assistant,
Pratapgarh Head Office, resident of V. Mahraj Ka Purwa, Tewat, Pratapgarh
Uttar Pradesh do hereby verify that the
contents of paras 1 to 12 are true to my own knowledge and that
I have not suppressed any material fact.

Lucknow:

Dated the 29th March, 1990.

Chandramauleshwar
(Chandra Mauleshwar Ojha)
APPLICANT

GOVT. OF INDIA
Ministry of Communication
Dept. of Posts.

OFFICE OF THE DIRECTOR POSTAL SERVICES ALLAHABAD 211001

NO. VIG/APP-111/89.

Dated at Allahabad the 31.10.89

Appellate Order

1. Shri C.M. Ojha PA Pratapgarh HO preferred an appeal dated 8.8.89 against the penalty of recovery of Rs.11,525.70 imposed vide SSPOs Pratapgarh memo no. F-6/88-89 dated 10.7.89. The main allegations against the appellant were that while working as SPM Laxmanpur, the appellant allegedly retained an amount of Rs.14,525.70 in the PO which was beyond the authorised cash balance of the office. The amount was retained allegedly by showing fictitious liabilities to the time of Rs.18,952/- without giving reasons on the reverse of the daily account dated 21.9.88. The said amount was allegedly stolen in the theft in P.O. which took place on the night of 21/22.9.88, thus, the department was put to loss on account of this. The appellant allegedly violated the provisions of rule 102(B) of P & T Man Vol. VI part III and caused Loss to the department to the extent mentioned above.

2. The appellant pleaded that he retained the cash in excess of the authorised cash balance on the strength of liabilities on account of warrant of payment of RD a/c no. 310285 for Rs.16,152.00 and MOs for Rs.3,000/- and Rs.1,000/- as

13
S

the minimum authorised cash balance. The liabilities were clearly noted on the reverse of the daily a/c. On receipt of information about the depositor of the said R.D.A/c having gone out of station, he returned an amount of Rs.10,000/- to HO on 17.9.88 thinking that in case the depositor returns the cash would be replenished to meet the office liabilities. The Account office had raised no objection to the excess retention of cash. The chowkidar admitted his guilt and credited an amount of Rs.3,000/- to make good the loss. The punishment order is defective as it contains extraneous matter and the observations of the disciplinary authority are wrong and presumptive.

3. I have gone through and examined all the concerned records/ documents and circumstances of the case vis-a-vis the appeal. It is found that the said warrant of payment in r/o RD a/c No.310285 was received in the PO duly sanctioned on 12.9.88. According to the appellant he remitted an amount of Rs.10,000/- to HO on 17.9.88 on learning that the depositor had gone out of station and thinking that the cash would be replenished if the depositor returns after a short time. But it is found that appellant had no specific information as to when the depositor was likely to return. Moreover it is also found that he showed liability of Rs.15,973/- on 19.9.88 in the daily a/c which obviously means that the liability of Rs.16152/- on a/c of the said RD A/c was not the part of liability shown on 19.9.88. The cash on 19.9.88 was to the tune of Rs.16,119.40 which shows that had the depositor returned and asked for payment on 19.9.88, he could/have been given the payment to the tune of Rs.16,152/- Furthermore, the examination of the daily a/cs for the period from 12.9.88 to 21.9.88 reveals that the appellant has shown the liability in a lump sum without giving

14
36

the details of the liabilities on the daily a/c. This proves the falsity of the plea of the appellant that the liabilities were clearly noted on the daily a/c by him. The liabilities shown in lump sum on 21.9.88 was to the tune of Rs.18,952/- whereas the appellant has mentioned in the appeal that it was to the tune of Rs.19,152/- - Rs.1,000/- as the minimum authorised balance. This also proves that the appellant did not show the liability correctly and whatever the liabilities were shown were ~~for~~ fictitious. I, therefore, find that the appellant had no reason to retain the cash in excess of the authorised cash balance on a/c of said RD a/c when he knew that the depositor had gone out of station and he was not sure about the specific date of his arrival. Moreover, there was no request from the depositor to wait for his arrival upto a particular date. I do not, therefore, find any substance in the plea of the appellant on this a/c. I do not find any infirmity in the punishment order as pointed out by the appellant. The arguments given by the disciplinary authority in the orders are only to bring home the point & it cannot be taken as extraneous matter. To say that accounts office did not raise objection does not establish the innocence of the appellant. The admission of guilt by the chowkidar can not be taken as a proof of the innocence of the appellant so far as his liability & responsibilities are concerned.

4. In the light of the foregoing discussion and the concerned records/documents and circumstances of the case I find the appellant guilty of the charges. He has not produced any solid evidence/argument to prove his innocence. Finding no substance in the appeal, I am constrained to reject the appeal. The appeal is, therefore, rejected.

*The Com
S. Kumar*
To: Sri C.M.Ojha PA Pratapgarh,
through SSPOs Pratapgarh.

Sd/-
(P.R.KUMAR
Director Postal Services,
Allahabad-211001.

To:

The Director of Postal Services,
Allahabad Region,
Allahabad.

Sub: Appeal against the order of recovery of
Rs.11,525.70 passed by Sri J.R.Kamal, Sr.
SPOS of Pratapgarh DN under his Memo No.
76/88-89 dt. 10.7.89 delivered on 13.7.89.

Sir,

The following appeal is submitted for favour of your honour's kind consideration and a merciful decision:-

Brief of the CaseAppealed.

1. The appellant was working as Sub Post Master at Lachhmanpur Distt. Pratapgarh since 1.5.1988. To guard cash and valuables of the office one contingency paid Chaukidar was employed at the Post Office. It was in the night of 21/22.9.88 when the said C.P.Chaukidar left his duty and a theft of Rs.14,525.70 was committed in the night of 21/22.9.88 causing a loss of Rs.14,525.70 to the Department. The matter was enquired into with a report to the police at P.S. Jethwara but to no fruitful result. During the preliminary investigation by the Inspector of Post Offices of Pratapgarh West Sub-Division the C.P.Chaukidar admitted his absence in the hight of the date of occurrence and voluntarily made a credit of Rs.3,000/- immediately and for the rest he promised to make it good gradually. The plea of sudden illness of the said Chowkidar was not believed by the Officers of the Department and he was put off duty. His promise to make good the loss by and by from his allowance was also not acceded to as a result the appellant was chargesheeted under Rule 16 of C.C.S .(C.C.A) Rules 1965 on the allegation of retention of excess cash on the date of occurrence. The allegations of retention of excess cash

contd...

was false without any relevancy to the occurrence of theft in absence of the said Chowkidar. The chargesheet was refuted on various counts but the learned D.A. had made up its mind to penalise the appellant this way and that way by the order for recovery of the whole amount of loss less by Rs. 3,000/- as made good by the C.P. Chaukidar. The punishment order being unjust, arbitrary and a thrust is appealed on the following grounds:-

GROUND S OF APPEAL.

1. That the order dated 10.7.89 was delivered on 13.7.89 and this appeal is well within the period prescribed for filling appeal.
2. That order is bad on law and facts which are irrelevant of the allegations made in the chargesheet.
3. That the learned D.A. has erred in scrutiny of the defence representation dated 29.6.89 and take due consideration of the submissions made therein.
4. That the order of recovery of Rs. 11,525.70 is without assessment of any fault on the part of the appellant.
5. That the wilful absence of the C.P. Chowkidar as admitted by him, has caused occurrence of the said theft of cash from the office and the learned D.A. has badly failed to make any assessment while passing the harsh and severe order. This renders the order as not sustainable to the eyes of law.
6. That the appellant was quite justified to retain cash equal to liability of the office plus the minimum fixed to meet the requirements of the public as shown below:-

(a) Warrant of payment of closed
R.D. account No. 310285 for Rs. 16,152.00.

(b) Money order No. 1039/200/-, 633/200/-, 2110/200/-
9375/400/-, 4387/1,000/-, 4386/1,000/- = Rs. 3,000/-

(c) Minimum Cash balance fixed Rs. 1,000/-

Total: Rs. 20,152.00

7. That the learned D.A. has not made any consideration of the figures shown in the para No. 6 above. The Cash to meet the above liabilities of the office was supplied by the Head Post Office. The reasons were apparent and quite justified which the Head Postmaster has accepted to be satisfactory even if the depositor of the said R.D. account No. 310 285 made delay in taking the payment.

8. That the sanctioned warrant of payment has rightly been kept in deposit for the prescribed period of one month.

9. That the allegation of retention of excess cash over a maximum of Rs. 3,000/- was not apparent. The liabilities were clearly noted on the reverse of the S.O. daily account prepared on a manuscript due to non-availability of the proper daily account form for which the learned D.A. has no reason to attribute.

10. That when the appellant was informed that the depositor.

(18)

: 4 :

(AB)

of the said R.D. Account had moved to an out-station temporarily, he returned a sum of Rs.10,00/- to Pratapgarh H.O. account Office on 17.9.88 on consideration that if the depositor got back within a short gap of time the cash would be replenished to meet with the office liabilities and that is why the liabilities of the office including the amount of sanctioned warrant of payment were maintained. There has been nothing as irregular to violate provisions of Rule 102(B) of Man. Vol. VI Part III as alleged. The appellant was fully justified to retain cash according to the requirement of the office.

11. That the Accounts Office did not raise any objection in view of the submission made in para 10 above because it was convinced that the appellant was working within the authorised limits.

12. That the observation of the learned D.A. that the miscreants knew the retention of heavy cash, is wholly wrong & presumptive which can not be sustained as held by the Hon'ble Supreme Court in Union of India Vs. H.C. Goel judgment dated 30.8.1963.

13. That the observation of the learned D.A. that the appellant was habitual to retain heavy cash is false and without any base in as much as no particular date or month has been shown in the order to let there be a rebuttal on behalf of the appellant. The observation is thus extraneous and liable to be ignored.

*K.C
G*

14. That as submitted in para 13 above the learned D.A., has gone astray as there has been no citation of any specific instance or date in the chargesheet.
15. That there has been clear admission of the guilt by the C.P. Chowkidar and that he is willing to make good the loss caused due to his carelessness and negligence but the learned D.A. has unheeded this point and taken determination to penalise the appellant heavily as if he was directly & liable responsible for the theft.
16. That the learned D.A. might have held the appellant liable to loss if it had provided residential quarter attached to the office otherwise there has no justification to penalise the appellant holding him directly or indirectly responsible for the loss.
17. That the order of recovery of Rs.11525.70 is arbitrary, excessive, unjustified and not based on principles of natural justice.
18. That for the above submissions the order is liable to be set aside.

P R A Y E R

True copy

It is respectfully prayed that the appeal be allowed, the recovery order dated 10.7.89 be set aside and the appellant be exonerated from the allegations made in the charge sheet. The amount if recovered be also ordered to be refunded.

Yours faithfully,

Dated: 8.8.1989

Copy to:

Sd/-
C.M. Ojha, Appellant

P.A. at Pratapgarh HO.

S r. S updt. of Post Offices of Pratapgarh
for information.

Annexure 3

BEFORE THE CENTRAL ADMINISTRATIVE RIBUNAL AT ALLAHABAD
CIRCUIT BENCH, LUCKNOW
(DISTT. PRATAPGARH)

O.A. No. (L) of 1990

Chandra Maleshwar Ojha Applicant
The Union of India and others Respondents

ANNEXURE -3

20
A/H

INDIAN POSTS AND TELEGRAPH

OFFICE OF THE SR. SUPDT. OF POSTS
PRATAPGARH DIVISION-236001

Memo. No. F 6/88-89/126. Dated at Pratapgarh on 4-4-89.

Shri... Chandra Maleshwar Ojha..... 8PM.....
Layman Pur. (Office in which working)..... Pratapgarh.....
is hereby informed that it is proposed to take action against him
under Rule 16 of C.C.S.(C.C.A) Rules, 1965. A statement of the
imputations of misconduct or misbehaviour on which action is proposed
to be taken as mentioned above, is enclosed.

2. Shri... Chandra Maleshwar Ojha... is hereby given an
opportunity to make such representation as he may wish to make
against the proposal.

3. If Shri. Chandra Maleshwar Ojha..... fails to submit
his representation within 10 days of the receipt of this Memorandum,
it will be presumed that he has no representation to make and orders
will be liable to be passed against Shri.. Chandra Maleshwar Ojha.....
ex-parte.

4. The receipt of this Memorandum should be acknowledged
by Shri... Chandra Maleshwar Ojha.....

To,

Shri... Chandra Maleshwar Ojha
..... 8PM... Layman Pur.
Pratapgarh

Copy
One
Sr. Supdt. of Post Offices,
Pratapgarh Dt. 236001.

Annexure-3

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR
AGAINST SHRI CHANDRA MAULESHWAR OJHA, S.P.M. LAXMANPUR
P.O. Distt. Pratapgarh.

A theft accurred in the Laxmanpur Post Office by opening the lock by breaking of in the night dtd 21/22-9-88 and a sum of Rs.14525=70 was stolen. Shri Chandra Mauleshwar Ojha while working as SPM Laxmanpur P.O. Pratapgarh retained a sum of Rs.14525=70 in excess of authorised Maximum balance of Rs.3000/- by showing fictitious liabilities of Rs.18952/- without giving any reason on the reverse of the daily account dtd.21-9-88 and failed to return the excess to its account office. Causing loss of Rs.14525=70 to the department. Thus Shri Chandra Mauleshwar Ojha is alleged to have infringed the provision of rule 102 (B) of P&T Man. Vol. VI part III by his carelessness and negligence in duty. The Department was put to loss of Rs.14525=70.

Shri Chandra Mauleshwar Ojha by his above acts exhibited lack of devotion to duty and thereby contravening the rule 3 I (ii) of CCS (Conduct) rules, 1964.

True & Correct

Sr. Supdt. of Post Offices
Pratapgarh DN.-230001.

True & Correct
Signature

GOVERNMENT OF INDIA
DEPARTMENT OF POSTS.

OFFICE OF THE SR. SUPDT. DEPOST OFFICES.
PRATAPGARH DIVISION-230001.

Memo No. E-6/88-89

Dated at PTB, the 10.7.89

S hri Chandra Mauleshwar Ojha S.P.M., Laxmanpur was served with a charge sheet under rule 16 of CCS (C & A) Rules 1965 vide this office memo even no. dated 4.4.89 on the following counts:-

A theft accurred in the Laxmanpur Post Office by opening the lock by breaking of in the night dated 21/22.9.88 and a sum of Rs.14,525.70 was stolen. Shri Chandra Mauleshwar Ojha while working as S.P.M./Laxmanpur P.O. Pratapgarh retained a sum of Rs.14,525.70 in excess of authorised Maximum balance of Rs.3000/- by showing reason on the reverse of the daily account dt.21.9.88 and failed to return the excess to its account office. Causing loss of Rs.14,525.70 to the department. Thus Shri Chandra Mauleshwar Ojha is a llèged to have infringed the provision of rule 102 (B) of P & T Man. Vol. VI part III by his carelessness and negligence in duty. The Department was put to loss of Rs.14,525.70.

S hri Chandra Mauleshwar Ojha by his above acts exhibited lack of devotion to duty and thereby contravening the rule 3 I (ii) of CCS(conduct) rules, 1964*.

S hri Chandra Mauleshwar Ojha received the memo of charges on 8.4.89 and vide his application dated 19.4.89 wanted to examine some documents for the preparation of his defence statement. He was permitted to do so. He examined the required documents on 30.5.89 in presence of A.S.P.(Hqr)

23

23

:2:

pratapgarh. Shri Chandra Mauleshwar Ojha submitted his defence statement dated 29.6.89.

I have carefully examined the memo of charges, defence statement of the official and all other related documents of the case with the following observations.

Laxmanpur P.O. is a single handed Departmental Sub-Office and Shri Chandra Mauleshwar Ojha was working as S.P.M. In the night of 21/22.9.88 a sum of Rs.14,525.70 was stolen by breaking of the lock of P.O. Since no residential accommodation is provided there for the S.P.M. Shri Chandra Mauleshwar Ojha went to his home at 17.00 after closing the office although Shri Chambhu Nath Shukla the C.P. Chaukidar had not yet came to his duty. Shri Shambhu Nath C.P. Chaukidar as per his statement attended the office at 17.30 hrs. and again went to his home at 19.00 hrs. for taking his meals. He came back to P.O. at 20.00 hrs. and again left the P.O. at 23.00 hrs. for the whole night. He attended P.O. only in the morning of 22.9.88. Hence the P.O. was remained unguarded from 23.00 hrs. of 21.9.88 to the morning of 22.9.88 during which the incident was accurred.

Shri Chandra Mauleshwar Ojha vide his defence statement had said that the occurrence has taken place in the night, thereafter Shri Shambhu Nath Shukla, the C.P. Chaukidar is responsible for the said Loss. This is why Shri S.N. Shukla C.P. Chowkidar had already created a part of loss and has also promised to make good the remaining loss. From the above fact it is observed that Shri Shambhu Nath Shukla the C.P. Chowkidar remained absent from duty on the night of theft and had also credited Rs.3,000/- but Shri Chandra Mauleshwar Ojha will not be exempted from the responsibility because he has retained heavy cash in excess of the maximum balance without showing the de-

contd.....

24

24

:3:

of liabilities as is evident from the S.O. daily account of Laxmanpur S.O. for the date from 12.9.88 to 21.9.88. Shri Chandra Mauleshwar Ojha in his statement dated 11.10.88 has said that on 21.9.88 he had retained Rs.14525.70 cash on a/c of liability of Rs.18,925/- including Rs.16,152/- in respect of RD A/c No.310285 which was received after sanction on 12.9.88 for payment. In the same statement he has further stated that the depositor of the said RD A/c had left for Basti on transfer. So taking into consideration the delay from the side of the depositor he remitted Rs.10,000/- to the account office on 17.9.88. But on 21.9.88 he retained Rs.14,525.70 with this intention that he will clear liability of M.Os worth Rs.4,000/- and in case if the depositor of said RD account has turned up for taking payment, he will make payment from the remaining balance after obtaining the cash from the account office. From the above fact it is quite clear that Shri Chandra Mauleshwar Ojha was not confirmed as to when the depositor of the said RD Account will come for taking payment. Therefore in this circumstances Shri Ojha should have not retained cash in excess of Minimum plus Max. liability.

The perusal of the S.O. daily account of Laxmanpur S.O. revealed that Shri Chandra Mauleshwar Ojha was habitual to retain the heavy cash without showing details of liabilities. It is also found that the average payment of that S.O. is between 4,000/- to 5,000/- except a few days where as the cash has been retained between 8,000/- to 16,000/- which is quite irregular and undesirable. It appears that the miscreants were known that heavy cash is generally retained and kept in the post office by the S.P.M. which became the cause of theft and thereby the department has suffered a loss of Rs.14,525.70 out of which Rs.3,000/- have been credited by Sri

Shambhu Nath S hukla the C.P. Chaukidar. The department is still in loss of Rs.11,525.70 for which Shri Chandra Mauleshwar Ojha is totally responsible.

I, J.R.Kamal, Sr. Supdt. Of Post Offices, Pratapgarh Division in exercises of the powers conferred vide rule 15 of CCS(CCA) rules, 1965 hereby order to recover Rs.11525.70 from the pay of Shri Chandra Mauleshwar Ojha P.A. the then S.P.M Laxmanpur S.O., in 35 Equal instalment of Rs.320/-per month and the last instalment of Rs.325.70 paise.

sd/-

Sr. Supdt. of Post Offices,
Pratapgarh DN-230001.

Copy to:

1. Shri Chandra Mauleshwar Ojha S.P.M., Laxmanpur for information.

2. The Sr. Postmaster P.T.B H.O. for information and necessary action.

3. P.F. of the official.

4. Vig. Branch.

5&6. O/C & spare.

To:

Sr. S.P.Os.,
Pratapgarh Dn.

Your Memo No. 76/89/D dated 4.4.89.

Sir,

The following representation is submitted for favour of your honours kind consideration:-

1. That the cause of the theft was the absence of the C.P. Chowkidar from his duty in the night of 21/22.9.88 when the entire amount of cash of Rs.14,525.70 was stolen away by breaking open of pad locks of the office as per his own admission on record.
2. That said C.P. Chowkidar after admission of his absence in the night of the occurrence, has made good a part of the alleged loss and has also promised to deposit the rest which case has not been finalised.
3. That the negligence is apparent on the part of the said Chowkidar which may not kindly be shifted on other operative staff on duty during the day.
4. That the retention of the cash was in accordance with requirements of the office to meet the liabilities which was accepted as satisfactory by the Postmaster of Pratapgarh H.O.
5. That there had been an allegation of showing a fictitious liabilities of Rs.18,952.00 against cash of Rs.14,525.70 which are not correct. Your honour will observe that a sanctioned withdrawal as a result of



closure of a R.D. A/C No. 310285 was in pendency for payment to the depositor on the date of occurrence. It was thus incumbent on the S.P.M. to have retained Rs. 16,152.00 plus the amount of Money Orders in deposit plus minimum sanctioned for the office. The liabilities so shown on the date were as under:-

W/P of R.D. A/C No. 310285 (310285) for Rs. 16,152.00

M.Os in deposit 1039, 633, 2110

200 200 200

for Rs. 3,000.00

Min. 9375, 4387, 4386
400 1000 1000

1,000.00

Total: Rs. 20,152.00

6. That the above figures amply justify retention of the alleged amount of cash. There is no fault on the part of the S.P.M. applicant.
7. That the infringement of Rule 102 (B) of P & T Man. Vol. VII Part III and conduct Rules 3 (i) (ii) as a lieged are not appropriates and may kindly be withdrawn.

P R A Y E R

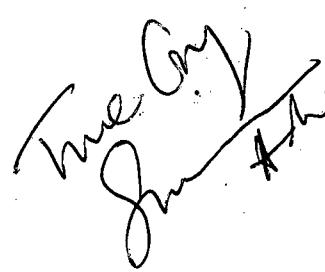
It is respectfully prayed that the S.P.M. applicant is innocent in the case and may not be penalised for little fault on his part. The past performances of the applicant are satisfactory and may not kindly be brushed aside.

Yours faithfully,

(C.M.Ojha)

S.P.M.

Dated: 29.6.89.



ब अदालत श्रीमान्
[वादी अपीलान्ट]

प्रतिवादी [रेस्पाइन्ट]

Central Administrative Tribunal महोदय
Court of Appeals, Hyderabad
Circuit Bench, Lucknow का वकालतनामा
O.A. No. (L) of 1990 (Distt. Bar) 28



वादी (अपीलान्ट)

Chandra Mauleshwar Ojha - Applicant

बनाम प्रतिवादी (रेस्पाइन्ट)
O.A. No. (L) of 1990 Union of India & Others - Respondents
न० मुकद्दमा सन् पेशी की तात १६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री
Shashi Bhal Mishra, Advocate
& Sharadendra Mishra, Advocate, both residents of
SD8/49 A, Kai Behon Lal Koad, Lucknow - 7
Phone (Res) 73859. महोदय एडवोकेट

अदालत न० मुकद्दमा करीकानी
नाम

को अपना वकील तियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौठावें या हमारी ओर से डिगरी जारी करावे और रूपया वसूल करें या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रूपया जमा करे या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकर को भेजता रहूँगा अगर मुकद्दमा 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

Accused No. 1
Shashi Bhal Mishra
21/3/90
Received
Chandra Mauleshwar Ojha

Chandra Mauleshwar Ojha
हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक 29th March 1990 सन् १६१० ई०
स्वीकृत

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

C.A. No. 93 of 1990(L)

Chandra Maleshwar Cjha ... Applicant

-versus-

Union of India and Others ... Respondents

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS.

I, R.K. ^{Mishra} ~~Misra~~ aged about 56 years, son of
Shri Thakur Pd misra
at present posted as Sr. Supdt. of 4 Post Offices
Pratapgarh do hereby solemnly affirm and state as
under:

1. That the deponent is Respondent no.2 in the above noted application and he has been authorised to file this counter affidavit on behalf of all the Respondents and as such he is fully conversant with the facts of the case.
2. That the deponent has read and understood the contents of the application and the facts deposed to herein under in reply thereto.
3. That before giving parawise comments on the application it is necessary to give brief history of the

Q.T.S. 12/10/90

case as detailed below:

(a) That the applicant while working as SPM Laxmanpur Post Office, Pratapgarh on 21.9.98, after closing ~~the office~~ hours, he put the cash in the small cloth bag and kept it in the iron chest embedded in the Post Office alongwith other valuables things. The applicant retained cash of Rs.14525.70ps. on 21.9.1998 against the maximum sanctioned balance of Rs.3000/- The lock of iron chest and I.O. Intergrate was locked by the applicant with the help of B.D. Facker Shri Chambhu Nath, C.P. Chaukidar had not attended the post office at the time of closing the Post Office. The applicant left the Post Office without awaiting arrival of the said C.P. Chaukidar at about 1700 hours.

With

(b) That a theft occurred in the Laxmanpur Post Office by breaking locks, Kundal chain of the main door of the Post Office in the night of 21/22.9.98 and the cash amounting to Rs.14,525.70/- was taken away by the thieves. The case was registered at P.S. Jethware under case Crime No.457/300 I.P.C. on

27/9/98



22.9.88 but Police investigation was ended with F.R. No. 49 dated 14.11.88.

(c) That the applicant was proceeded against under rule 16 of CCS(C&A) Rules, 1965 vide Office Memo ~~xx~~ dated 4.4.89 for the misconduct or misbehaviour on his part. He was given full opportunity to defend his case and was required to submit his representation if any and after careful consideration of the whole case and also his defence dated 29.6.1989. The applicant was found fully responsible for the loss of the Government money amounting to Rs. 14525.70 ps. on 21/22-9.88 and a punishment of recovery of Rs. 11525.70 ps. from the pay of the applicant in 36 (thirty six) instalment was awarded by the competent disciplinary authority ie. Sr. Supdt. of Post Offices, Pratapgarh vide his memo dated 10.7.1989.

(d) That the applicant preferred his appeal dated 8.8.89 to the Director Postal Services, Allahabad which was rejected by the proper appellate authority ie. the Director of Postal Services, Allahabad vide his memo dated 31.10.89 and the applicant was submitted his application in the Hon'ble CAT Lucknow against the above orders.

27/10/90

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

5. That the contents of para 4(i) & (ii) of the application are incorrect as stated, hence denied.

6. That the contents of para 4(iii) of the application are not ~~referred to~~ disputed.

7. That the contents of para 4(iv) of the application are incorrect as stated, hence denied and in reply it is submitted that a sum of Rs.3000/- was credited by the C.P. Chaukidar.

8. That the contents of para 4(v) & (vi) of the application are incorrect as alleged, hence denied.

9. That the contents of para 4(vii) of the application are not admitted being false and in reply it is submitted that the applicant was proceeded for the departmental lapses which caused the loss of such huge amounts of Government money.

10. That the contents of para 4(viii) of the application are incorrect as stated, hence denied and in reply it is submitted that the retention of cash amounting to Rs.14525.70 ps. on 21.9.1988 was not at all found justified. Though he showed fictitious liabilities

in lump sum in the day. In detailed examination that Money Orders amounting to Rs. 4000/- was in deposit admitted in his statement dated 11.10.88 instead Rs. 3000/- and had kept a sanctioned vouchers amounting to Rs. 16152/- on account of matured value of one RD A/c. No. 310285. The voucher was received in his office as late as on 12.9.88 and he stated that he could not pay the amount of sanctioned voucher. The depositor was not available and was transferred to Patti District and a sum of Rs. 10,000/- was remitted back to the account office on 17.9.88 revealed the fact the clearance of the vouchers was remitted and thus any further retention of cash on this account was not justified and the representation dated 29.6.88 submitted by the applicant was duly considered carefully before arriving at the decision in the ~~the~~case.

11. That the contents of para 4(ix) of the application are incorrect as stated, hence denied and in reply it is submitted that the order was passed on due consideration of the defence submitted by the applicant and the same are quite clear.

21/5/88



12. That the contents of para 4(x) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant had preferred an appeal to the competent appellate authority which was rejected after considering all the facts mentioned in his representation.

13. That the contents of para 4((xi)) of the application are incorrect as alleged, hence denied and in reply it is submitted that the orders were passed after due consideration of the full facts of the case and also the representation submitted by the applicant and the applicant was found fully responsible for the loss of Government money.

14. That the contents of para 5(a) of the application are incorrect as stated, hence denied and in reply it is submitted that the order was passed on due consideration of the defence submitted by the applicant and the same are quite clear.

15. That the contents of para 5(b), (c) & (d) of the application are incorrect as alleged, hence denied.

16. That the contents of para 5(e) of the

210723

application are incorrect as stated and in reply it is submitted that the orders were passed by the competent disciplinary authority in the merit of the case.

17. That the contents of para 5(f), (g), (h) & (i) of the application are incorrect as stated, hence denied and in reply it is submitted that the orders were passed by the competent authority in the merit of the case and according to existing rules/laws.

&(k) to(s)

18. That the contents of para 4(j) of the application are incorrect as stated, hence denied and in reply it is submitted that the orders were passed on due consideration of full facts of the case and also the representation submitted by the applicant and the applicant was found fully responsible for the loss of the ~~the~~ Government money involved in the instant case.

19. That the contents of para 5(t) of the application are not admitted being false.

20. That ~~xxxxxx~~ the contents of para 6 of the application are incorrect as stated, hence denied and in reply it is submitted that the appeal was rejected by

Atm, B

the competent appellate authority after due consideration of the full facts in the instant case.

21. That the contents of para 7 of the application need no comments.

22. That the contents of para 8(i) to (iii) of the application are incorrect as stated, hence denied and in reply it is submitted that there seems to be no jurisdiction of the Hon'ble CAT to entertain into the decision made by the competent disciplinary authority in such departmental cases.

23. That the contents of para 9(i) to (iii) of the application are incorrect as stated, hence denied and in reply it is submitted that there seems to be no jurisdiction of the Hon'ble CAT to entertain into the decision made by the competent disciplinary authority in such departmental cases.

24. That the contents of para 10, 11 & 12 of the application need no comments.

25. That in view of the facts disclosed in the foregoing paragraphs the reliefs sought by the applicant is liable to rejected.

5132, 3

26. That in view of the facts, reasons and circumstances stated above, the application filed by the applicant is liable to be dismissed with costs against the applicant.

21/8/90

Deponent.

Lucknow,

Dated: 24th August, 1990.

Senior Supdt. of Post Office
PRATIGARH Dist. 230001

Verification.

I, the above named deponent Shri R.K. Mishra do hereby verify that the contents of para 1 & 2 of the affidavit are true to my personal knowledge and those of paras 3 to 24 are believed to be true on the basis of official records and information gathered and those of paragraphs 25 & 26 believed to be true on the basis of legal advice. Nothing material fact has been concealed and no part of it is false.

21/8/90

Deponent.

Senior Supdt. of Post Office
PRATIGARH Dist. 230001

Lucknow,

Dated: 24th August, 1990.

I identify the deponent who has signed before me is the same person and is also personally known to me and signed on at Lucknow at am/pm in the Court compound at Lucknow.

Court

seriously ill and unable to

see. 53061

who is

Clerk

deponent

his

age

R.K. Mishra

V K Chaudhary

Lucknow, 24/8/90

Dated: 24 August, 1990.

(VK Chaudhary)

Addl Standing Counsel for Central Govt
(Counsel for the Respondents)

Signature

89060

ब अदालत श्रीमान्

[वादी] अपीलान्ट

श्री

प्रतिवादी

महोदय का वकालतनामा

महोदय

(टिकट)

वादी (अपीलान्ट)

रामगढ़ा

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

मुकदमा नं० ३३ सन् १९९०(ल) पेशी की ता०

१६

३०

ऊपर लिखे मुकदमा में अपनी ओर से श्री वी० के० चौधरी एडवोकेट हाईकोर्ट ऊपर स्थायी अधिवक्ता भारत सरकार लखनऊ वेन्य, निवास- १४/६२६ बरफखाना, नईबस्ती अलंकार सिनेमा के पास लखनऊ टेली. न. २३४६८६ हाईकोर्ट चेम्बर न. १४ टेली. न. २४०६०७

(अदालत
नाम
मुकदमा
फरीकासनी)

को अपना वकील नियुक्त करके प्रतिज्ञा (इकगार) करता हूं और लिखे देता हूं कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवो व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रूपया 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 रूपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रूपया 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 हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलोफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होंगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम अवै।

स्वीकृत

(वी० के० चौधरी)

एडवोकेट हाईकोर्ट

हस्ताक्षर १५/३/९०

२५-८-९०

मुख्य सचिव, ओफिस
PRATAF CARH D 230001

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना सन् १६ ई.

Before the Central Administrative Tribunal
Circuit Bench: Lucknow
M. P. No. 618/90(L)
C. M. Appln. no. of 1990
Chandra Mauleshwar Ojha - Applicant

Fixed on 6/11/90

Chandra Mauleshwar Ojha - Applicant
Vs.

In re: O. A. no. 93
93
(L) of 1990.

The Union of India as - Respondent
Application for condonation of delay
in filing the rejoinder affidavit.

The applicant above named, begs to submit as
under:-

1. That the rejoinder affidavit, attached hereto, was
prepared on 19.9.90 but could not be filed that
day due to the sickness of his undersigned
counsel.

It is, therefore, prayed that the delay
in filing this rejoinder affidavit by a few days
may kindly be condoned and the same may
kindly be taken on record.

I filed today
as on
5/10/90

Dated: 5.10.90
Lucknow.

S. B. Mishra
Advocate
(S. B. Mishra)
Advocate
Counsel for the Applicant

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

O.A. NO. 93 of 1990 (L)

fixed on 6-11-90 for hearing

Chandra Mauleshwar Ojha ... Applicant

versus

Union of India & Others ... Respondents.

REJOINDER AFFIDAVIT ON BEHALF OF THE
APPLICANT.

I, Chandra Mauleshwar Ojha, above named applicant do hereby solemnly affirm and state on oath as under :

1. That I am the applicant in the aforesaid case. I have read the counter-affidavit of the respondent and it has been explained to me and I am now in a position to controvert the same.
2. That the contents of paras. 1 and 2 of the counter-affidavit need no comments.
3. That the contents of para. 3(a) of the counter-affidavit that the cash and valuables of the office duly closed in a small cloth bag were kept in the Iron chest embedded in the Post Office, are admitted as correct facts and the rest are denied as false.

In reply it is submitted that the Iron chest and doors of the office were securely closed and locked at about 17.00 hrs. on 21.9.1988 which was properly examined by the C.P. Chowkidar Sri Shambhu Nath Shukla. It is further submitted that the Sub-Postmaster - applicant was authorised to retain cash upto liabilities of the office plus minimum cash balance of the office viz. Rs.20,152/- to meet the sanctioned withdrawal of Recurring Deposit account No. 310285 and a minimum of Rs.1,000/- fixed for the office. It is further submitted that the depositor of the aforesaid R.D. Account had informed the applicant that he would take the withdrawal on next day. The applicant was thus bound to retain cash to meet the requirements of the office on the next day. It is further submitted that earlier on 17.9.1988 a remittance of Rs.10,000/- was made to Pratapgarh H.O. as was found surplus over the liabilities of the office.

4. That the contents of para. 3(b) of the counter-affidavit are correct hence admitted. It is added that the said C.P. Chowkidar in face of his admission during preliminary enquiry and police investigation, left the compound of the Post office at about 23.00 hrs. on the ~~plea~~^{of} some sudden illness and went to his house at a distance of about 2 km. The thieves finding the Post office unguarded committed the theft by breaking open locks and Kundhas etc. and did away with Rs.14,525.70 which was through the gross negligence of the said Chowkidar for which he alone is responsible.

5. That the contents of para. 3(c) as written are not admitted. In reply it is submitted that the case did not warrant any rule 16 proceeding against the Sub-Postmaster applicant. Actually the C.P. Chowkidar was at fault and he voluntarily deposited a part of Government loss amounting to Rs.3,000/- with a promise to make good the ~~is~~ rest which be ordered to be recovered from the salary every month till the loss is completed. It is further submitted that the said C.P. Chowkidar was put off duty for his ~~des~~ertion from duty but later on he was exonerated on the recommendation of a high officer of the department without any charge sheet or proceeding which was prejudicial and malafide. It is further submitted that the respondent No. 2 ordered recovery of the remaining loss of Rs.11,525.70 from the pay of the applicant. Appeal against this arbitrary and malafide recovery order was preferred to the respondent No. 3 but to no judicious decision which compelled the applicant to come to this Hon'ble Tribunal.
6. That the contents of para. 3(d) of the counter-affidavit are denied. In reply it is submitted that the appellate order was unjudicious, unjust, illegal and malafide as such the instant application.
7. That the contents of para. 4 of the counter affidavit show that the respondents admitted the contents 1 to 3 of the application.
~~of paras. 4(1)(2)(3) of the application.~~

C. M. Ojha.

8. That the contents of para. 5 of the counter affidavit are without any speaking reason hence denied and those of para. 4 (i) and (ii) are reiterated.

9. That the contents of para. 6 need no comments.

10. That the contents of para. 7 of the counter affidavit that a sum of Rs.3,000/- was credited to Government by the said C.P. Chowkidar, is admitted and the rest is denied. It is further submitted that the remaining loss of Rs.11,525.70 was also to be recovered from him as per Standing Order No. 81 (Annexure 'A') - of Postmaster General of Uttar Pradesh. It is further submitted that the C.P. Chowkidar knew it well that the thieves entered the premises of the office in his absence and committed the theft which was due to ^{his} own negligence, making him answerable to the loss.

11. That the contents of para. 8 of the counter affidavit are denied as being without reasons and those of para. 4(v) of the application are reiterated.

12. That the contents of para. 9 of the counter affidavit are denied as incorrect. In reply it is again submitted that the cause of the theft was through the negligence of the C.P. Chowkidar who deserted his duty in the mid-night. The retention of cash was within the permissible limit as such the applicant did not commit any infringement of rule as he was bound to keep cash equal to

C. M. ofha.

office liabilities for the next day. The theft was imminent on account of absence of the night guard even if the cash was to an extent of Rs.3,000/-. The C.P. Chowkidar left the Post-Office unguarded and moved to his house; as such he was fully responsible for the whole loss. Thus retention of cash has no bearing to the loss.

13. That the contents of para. 10 of the counter affidavit ^{are} illogical and false; hence denied. It has been amply submitted that the cause of the theft was the negligence of the C.P. Chowkidar and not the retention of short or excess cash. The depositor claimants of the amount of the R.D. Account No. 310285 was out hence a sum of Rs.10,000/- was returned to Pratapgarh H.O. as surplus but on 21.9.1988 the applicant was informed that the depositor would take the withdrawal on 22.9.1988 hence cash was retained to meet the same with the help of the daily anticipated collection of funds at the P.O. counter. Nothing irregular has been done. It is submitted that theft was not committed by virtue of retention or more or less cash but it was done on account of the absence of the said night guard which caused entrance of thieves in the premises and the office by breaking open padlocks and 'Kunda' etc. Thus the cause of theft was unauthorised absence of the Chowkidar at midnight and in no way the retention of cash as it would have been committed even for a small sum.

It is also submitted that nobody was in the knowledge of the cash kept in the Iron chest.

14. That the contents of para. 11 of the counter affidavit are false hence denied. It is submitted that both the orders ^{are} neither speaking nor just. There had been no justification of any recovery from the Sub-Postmaster- applicant and if there is any it is to be done from the said night-guard who has been exonerated and taken back to duty instead of his summarily being dismissed from service as per orders of the P.M.G. U.P., Lucknow.
15. That the contents of para. 12 of the counter affidavit are false hence denied. In reply it is submitted that the lower and appellate, both orders, are unreasoned and without proper discussions in view of Circle Standing Orders annexed with the Rejoinder Affidavit. The orders have been made under obvious pressure, hence bad on law, otherwise the C.P. Chowkidar should have been dismissed summarily without following any procedure for his gross negligence resulting ⁱⁿ loss to Government.
16. That contents of para. 13 of the counter affidavit are false and vague, hence denied. In reply it is submitted that the deponent Respondent has erroneously thrown the responsibility of the theft on the Sub-Postmaster-applicant in place of the night guard who has clearly admitted that the theft had taken place through his fault and absence and also made good a portion of the loss.

17. That the contents of para. 14 of the counter affidavit are false, as such denied. None of the two orders was passed with due regard to the merit of the case hence not sustainable in the eyes of law.

18. That contents of para. 15 of the C.A. are not correct hence denied. In absence of any cogent reasons in the counter affidavit the contents of relative paragraphs of the application are reiterated.

19. That the contents of para. 16 of the counter affidavit are denied as incorrect. In reply it is again submitted that the orders were not passed after due consideration of merits and demerits of the case. The motive behind the orders was to ~~be~~ shield the C.P. Chowkidar and to put back him to duty which was not justified.

20. That the contents of para. 17 of the counter affidavit are denied as false. In reply it is submitted that the orders have been passed without consideration of standing orders of the PMG, U.P. annexed.

21. That the contents of para. 18 of the counter affidavit are mere repetition of previous paras. of the counter-affidavit hence not admitted. It is submitted that the authorities concerned have wholly ignored the Circle Standing Orders to reinstate the Chowkidar to the same post throwing whole liability on the Sub-Postmaster applicant as if the said Chowkidar was not

bound by duty to guard the Post Office at night for which the Government paid him about Rs.1,000/- per month. Both the orders are not legally sustainable and liable to be quashed.

22. That the contents of para. 19 of the counter affidavit are false hence denied. In reply it is stated that no cogent reason has been given hence contents of relative paras. of the application are reiterated asserted.
23. That the contents of para. 20 of the counter affidavit are repetitions of foregoing contents of the counter affidavit otherwise the appeal ought to have been allowed, the entire amount of loss ordered to have been recovered from said Chowkidar alongwith his summary dismissal from service. The orders are too bad to meet the ends ^{of} justice specifically when the Chowkidar has been taken back to duty without any further recovery.
24. That the contents of para. 21 of the counter affidavit show that the relative paras. of the application stand admitted.
25. That the contents of para. 22 of the counter affidavit are false and illegal hence denied. In reply it is respectfully submitted that both the orders ^{are} bad ~~on~~ law and facts and based on malafides and this Hon'ble Tribunal has jurisdiction to consider and decide the application and grant the reliefs.

C. M. dha.

26. That the contents of para. 23 of the counter-affidavit are not correct hence denied. In reply it is submitted that according to the Respondent-deponent, if an alternative remedy under Section 19 of the C.A.T. 1985 is negatived by the Appellate Authority, none should come to this Hon'ble Tribunal even if the appellate order is bad, illegal, prejudicial and malafide. This plea is not sustainable and the applicant has a legal course to make an approach to this Hon'ble Tribunal which has legal jurisdiction to entertain and decide the application.

27. That contents of para. 24 of the counter-affidavit show that the relative paras. of the application stand admitted.

28. That the contents of para. 25 of the counter-affidavit on behalf of the respondents show that instead of an objective, impersonal and judicious approach to the matter there is ~~no~~ a noticeable vehemence in the text of the counter affidavit intended to defeat the purpose of the application at any cost. It is further submitted that the above approach goes to show that there is no desire on the part of the respondents to assist the Hon'ble Tribunal to reach a fair and judicious decision in the matter on its merits.

Lucknow;
Date : 19th Sept. 1990

C. M. Qha.
Deponent.

VERIFICATION

I, the deponent above named do hereby verify that the contents of paragraphs 1 to 26 are true to my ~~know~~ own knowledge and those of paragraphs 27 and 28 are true to my belief.

Signed and verified this the 19th day of Sept. 1990 at Lucknow.

C. M. Ojha

(C.M. OJHA)
Applicant-Deponent.

Lucknow;

Sept. 19, 1990

Identified the deponent
who has signed this
before me.

Shambhu Mishra
Advocate

19/9/90

81. Duties of Chaukidars attached to post offices.

Annexure A

6.93. C

The duties and responsibilities of chaukidars attached to post offices in the U. S. Circle, are detailed below and they should, in cases where there are chaukidars, be fully explained to them. A memo containing these instructions should be prepared and the initials or thumb impression of the chaukidars taken on the memo in token of their having understood them.

In offices where there is only one chaukdar, necessary alterations should be made in the instructions.

Instructions to be strictly observed by the chaukidars attached to Post Offices:—

- (1) They will not do any work in the Post Office or elsewhere during the day, so they may take all the rest necessary to enable them to keep awake throughout the night.
- (2) No bedding should be brought by them to the office.
- (3) Directly the cash accounts are closed for the day they will, in the presence of the Postmaster, examine the locks of each safe in the strong room before the room is locked for the night, and the locks of the strong room door, and satisfy themselves that all is right.
- (4) On no account should they lounge or fall off to sleep at night.
- (5) When the office is closed for the night, they

should satisfy themselves that all the doors and windows are properly locked.

(2) They should not both be away from the verandah near the treasury room at the same time. At intervals, during the night, one of them should walk round the office to see that all is well.

(7) They will be held personally responsible for the safety of the office and strong room during the night.

(3) Whistles should be worn round the neck in order to give the alarm, if necessary, to the officials permitted to sleep on the premises. On such occasions the Postmaster also should be aroused immediately.

(9) No official should be allowed to sleep in post office unless specially ordered to do so by the Postmaster.

N. B.—The chaukidars must understand that they will be held personally responsible for any loss or theft of Government property which may be due to any neglect on their part to carry out the above instructions strictly, and if they should be discovered asleep, or with any bedding near them they will be dismissed from the service. In case of theft, due to any outsider entering the office, the Chaukidars will not only render them liable to make good the loss, but may also be dismissed from the service.