

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 17-11-87

APPLICATION NO 511 /87 (F)

W.P.No. _____

APPLICANT

Vs

RESPONDENTS

Shri H.S. Keshava Murthy

To

The Sr. Supdt of Post Offices, West Division,
Bangalore & another

1. Shri H.S. Keshava Murthy
Sub Post Master
Vijayanagar Post Office
Bangalore - 560 040
2. The Senior Superintendent of Post Offices
Bangalore West Division
Bangalore - 560 010
3. The Director of Postal Services
South Karnataka Region
Bangalore - 560 001
4. Shri M.S. Padmaraiah
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

(Dated 18/11/87)

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~ORDER~~

~~ORDER~~ passed by this Tribunal in the above said application

on 13-11-87

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Rec'd for 283

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RECEIVED 2 copies 18/11/87

Diary No. 1436/CR/87

Date: 19.11.87 AD

For Deputed
DEPUTY REGISTRAR
(JUDICIAL)

Encl: as above.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH: BANGALORE.

DATED THIS THE 13TH NOVEMBER 1987

Present

THE HON'BLE SHRI P.SRINIVASAN .. MEMBER(A)

THE HON'BLE SHRI Ch.RAMAKRISHNA RAO MEMBER(J)

APPLICATION NO.511 OF 1987(F)

H.S.Keshava Murthy,
Sub Post Master
Vijayanagar Post Office,
Bangalore-560 040. Applicant

(By - Applicant in person)

-vs.-

1. S.Sundararaman,
Sr.Superintendent of Post Offices,
Bangalore West Division,
Bangalore-560 010.

2. Meera Balaratnam
Director of Postal Services
South Karnataka Region
Bangalore-560 001 .. Respondents.

(By Shri M.S.Padmarajaiah, Senior Standing
Counsel for ~~Resps~~ Central Government,
for respondents.)

Application under Sec.19 of the Administra-
tive Tribunals Act, coming on for hearing this day,
HON'BLE SHRI P.SRINIVASAN, MEMBER(A), made the
following:

O R D E R



ORDER

The applicant was working as Sub Post Master in Malleswaram West Post Office during 1983-84. During that period, the Clerk at the Savings Bank counter, was a certain Chennahanumaiah. It appears that the said Chennahanumaiah received deposits under the Cumulative Time Deposit (CTD) Scheme, but did not account for them in the journal maintained in the Post Office, though he made necessary entries in the pass-book issued to the customers and duly stamped them. The amount so received and not accounted for in the journal, it is alleged, was misappropriated by the said Chennahanumaiah. In this manner, it was discovered some time in June 1984 that a sum of over Rs.22000/- received towards CTD accounts was not credited in the journal during 1983-84. A Criminal case against the said Chennahanumaiah, has been lodged and that case is pending. Departmental enquiry was also initiated against him, but the said enquiry was stayed by this Tribunal till the criminal case is decided. Meanwhile, the authorities found that the applicant who was working in the supervisory capacity of Sub Post Master, had not exercised his supervisory functions properly and took the view that if he had done so, the fraud said to have been committed by Chennahanumaiah could have been detected much earlier and the loss to the Department reduced considerably. Departmental proceedings were initiated under Rule 16 of the CCS (CCA) Rules.

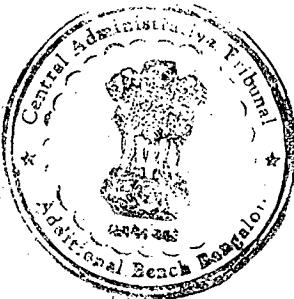


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The applicant submitted his explanation. The disciplinary authority held that the applicant was guilty of negligence. He ordered that a sum of Rs.6,500/- be recovered from the pay of the applicant in instalments at the rate of Rs.650/- per month. This order of the disciplinary authority is dated 24-2-1987. The applicant filed an appeal against this order. It was decided by the appellate authority by an order dated 2-6-1987. He reduced the punishment by directing that only a sum of Rs.4,400/- be recovered from the applicant. In arriving at this figure, the appellate authority felt that because the applicant did not exercise his supervision efficiently, a loss of Rs.4,400/- had been incurred by the Department. He directed that this sum be recovered from the applicant. It is against these orders of the Disciplinary and the Appellate Authorities that the present application has been filed.

2. Till this application was filed, a sum of Rs.2,600/- had been recovered from the pay of the applicant. Recovery of the balance was stayed by the order of this Tribunal on 29-6-1987.
3. Shri M.S.Padmarajaiah, Senior Standing Counsel for Central Government, assisted by Shri S.Sundararaman, Senior Superintendent of Post Offices, who is

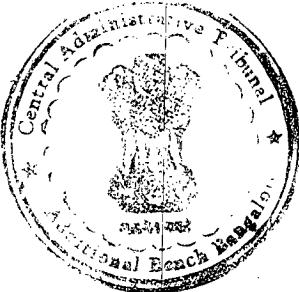


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respondent

respondent-1 in the present application and who, as Disciplinary Authority, passed the impugned order dated 24-2-1987, appeared for respondents. The applicant argued his case himself.

4. The applicant submits that the charge against him was not justified. The respondents had taken the view that while initialling the entry in the journal on 30-3-1984 relating to a deposit of Rs.400/- said to have been made by a certain P.P.Nayak, the applicant had not verified the balance in the relative CTD account as on the date of the last transaction. They had also taken the view that the applicant was remiss in initialling the entry when the date of last transaction had not been noted. The assumption of the respondents was that if the date of last transaction had been duly entered and the applicant had tried to verify the balance as on that date in the CTD account from the journal of that date, he would have noticed that no transaction had taken place on that date, though a credit appeared in the CTD pass-book as of that date. This would have shown how Chennahanumaiah was crediting amounts in the pass-books handed over to customers without making entries in the journal and the fraud would have been detected. Similarly, the respondents had taken the view that when the applicant initialled an entry in the journal on 4-4-1984 relating to a withdrawal of a sum of



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Rs.

Rs.3,000/- from CTD Account No.481425, he was negligent in so far as he did not pull up the Clerk for not entering the date of last transaction and the balance of the account after the withdrawal. The applicant submitted that his supervisory functions did not involve checking the balance in a CTD account on the last date of transaction. The rules only required that he should check the entry in the journal on the date he initialled it with reference to the entry made in the pass-book on that date. It was impracticable to expect the supervisory officer to verify whether the balance in account noted in the journal tallied with the balance on the last date of transaction. Such verification would take time and the time permitted to a supervisor to initial an entry in the journal relating to CTD was only 36 seconds, within which this verification could not be done. His supervisory functions involved only "checking" but not "verification" and "checking" meant ensuring that the entry in the pass-book and the entry in the journal tallied. The ledger relating to CTD is maintained in the Head Office and they could detect any omission in the journal with reference to the ledger and the record of daily transactions received by them from the Branch Offices (like the one in which the applicant was working where the ledger of CTD Accounts was maintained). This would no doubt mean the detection would be delayed but that was the system. As regards omission of the entry relating to date of last transaction and balance, when withdrawal ^M ^{the} ^M ~~the sum~~ of Rs.3000/- was made in CTD Accounts No.481425



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on 4-4-1984, the applicant urged that this was not a serious lapse. After all even if the date of last transaction and the balance had been noted, he would still have initialled the journal, because, as stated earlier, it was not part of his duties to verify the balance with the balance on the last date of transaction. He also submitted that no action had so far been taken against the real culprit namely, Chennahanumaiah and he(the applicant) had been made a scape-goat. He therefore pleaded that the order imposing punishment and the order of the appellate authority should be quashed.

5. Shri M.S.Padmarajaiah urged that it was the duty of the supervisory officer to check the balance in a CTD account noted in the journal submitted to him on a particular day, with the balance on the last date of transaction in that account. This would not take more than half a minute, because generally the same journal would contain the entry relating to last date of transaction also. The applicant, it was submitted, was not right in saying that his duties were confined to checking the entry in the journal with the corresponding entry in the pass book and no more. Shri Padmarajaiah also urged that the authorities were right in holding the applicant guilty of the charge levelled against him and imposing the penalty which they did and contended that this Tribunal should not interfere with the impugned orders.



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6. We have considered the matter very carefully. We do agree with the respondents that if the applicant had, when he initialled the entry of the deposit in the CTD account made in the journal, on 30-3-1984, verified whether the balance shown there tallied with the balance appearing on the last date of transaction in the same journal, the fraud said to have been committed by Chennahanumaiah would have come to light. But, we are not prepared to agree ^{to the extent} ~~of saying~~ that the omission of the applicant to do so, contributed to the fraud. It is not the case of the respondents that the applicant had derived any benefit by not making the verification. It does appear to us that the applicant was a victim of circumstances. If no fraud had been committed by the clerk at the counter, the lack of an entry here and an entry there, may not have attracted serious notice. At the same time, we cannot exonerate the applicant fully either. The Sub Office journal was the primary book of entry ^{of money} relating to CTD accounts involving ~~many~~ transactions. That being so, it was imperative that every column in the journal was duly entered by the counter clerk and when the journal was submitted to the applicant as Supervisor, he should have ensured that all columns in the journal had been duly entered. In so far as he did not do so on two occasions, i.e., on 30-3-1984 and 4-4-1984, he must be held guilty of negligence.

P. J. S. Iyer

But



But, as stated earlier, the negligence cannot be said to have contributed to the fraud in a positive manner as held by the disciplinary authority. We feel that it is unfair to recover from the applicant a portion of the amount lost by the Postal Department as a result of the alleged actions of Chennahanumaiah, it being nobody's case that the applicant had benefitted from it. The criminal case against Chennahanumaiah is said to be pending and disciplinary proceedings against him can be proceeded with only after the criminal case is concluded and we do not know at this stage what the outcome of all that will be. Taking into account these factors, we feel that the ends of justice would be met if the penalty imposed on the applicant is reduced to one of 'censure'.

7. In view of our observations above, we modify the orders of the disciplinary and the appellate authorities by reducing the penalty imposed upon the applicant to one of 'censure'. Amounts recovered from the applicant as a result of the orders by these authorities, should be refunded to him.

8. In the result, the application is allowed in part. Parties to bear their own costs.

Sd/-

(P.SRINIVASAN)
MEMBER(A)

Sd/-

(Ch.RAMAKRISHNA RAO)
MEMBER(J)

-True copy-

Pr. Venkateshwaran
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE