

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR, OR. NO.

JAIPUR.

C. O. NO. 755/92. : Date of order: 7.7.93

Gopal Prasad Sharma : Applicant.

Mr. K.L. Thawani : Counsel for the applicant.

VERSUS

Union of India & Ors. : Respondents.

Mr. J.D. Sharma : Counsel for the respondents.

CORAM:

HON'BLE MR. B.B. MAHAJAN, ADMINISTRATIVE MEMBER

HON'BLE MR. GOPAL KRISHNA, JUD. MEMBER

PER HON'BLE MR. B.B. MAHAJAN, ADMINISTRATIVE MEMBER

Gopal Prasad Sharma has filed this application under Section 19 of the Administrative Tribunals Act, 1985 against the order by which a sum of Rs. 1750/- was recovered from him. The applicant was working as a mail clerk on 13.10.81. A charge sheet under Rule 16 of the CCS (CCA) Rules, 1965, was served on him on 21.7.82 in regard to the loss of one account bag containing Rs. 3500/-. On receipt of his reply the Superintendent Post Offices, Bharatpur, vide the impugned order dated 19.10.1982, Annexure A-1 imposed punishment of the recovery of the loss of Rs. 3500/- from the pay of the applicant. On appeal the Director Postal Services (Rajasthan, Eastern Region, Jaipur),

reduced the punishment to recovery of Rs. 1750/- vide order dated 18.3.83 Annexure.A-2.

2. The applicant's revision petition was rejected by Member Administration P & I Board, vide his order dated 26.11.83. A petition to the President of India was rejected vide order dated 14.2.85 Annexure.A-4. Another petition to the President of India was rejected vide order Annexure.A-5.

3. We have heard the counsel for the parties.

4. The learned counsel for the applicant has referred to the due mail and sorting list dated 25th April, 1981 Annexure.A-6, which shows that the time for despatch of mail for Kotwali (to which the missing bag was supposed to have been sent) was at 12.00 (noon). He has also referred to the Memorandum dated 17.8.82 Annexure.A-7, which states that the time for despatch for mail to Kotwali, Bharatpur would be 10.30 Hr. instead of 12.00 Hr. From these two documents it can be deduced that on the relevant date i.e. 13.10.81, the due time for despatch of mail to Kotwali was 12.00 (noon). He has also referred to Annexure.A-9 which shows that duty hours of the applicant were from 8.00 to 11.30 a.m. and then from 14.30 to 18.00 Hr.

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His contention is that the mail bag had been despatched when the applicant was not on duty and he was therefore, not responsible for the loss of the missing bag. We have perused the impugned orders. In the last order of the Review Petition dated 10.7.86, Annexure.1-5, it has been stated that this point had already been considered and fully <sup>dealt</sup> dealt with in the statutory orders regarding the appeal and review holding that the correct time of despatch of bag was 11.00 Hr. The order dated 14.2.85 on the Review Petition Annexure.1-4, states in para 5, " It is observed that the time of despatch of account bag was 11.00 hr." The order however, does not indicate any evidence, either oral or documentary, on which this finding/ that the bag was despatched at 11.00 Hr. is based. The point has not been considered in the order of the disciplinary authority and appellate authority. The orders thus do not indicate any evidence on which finding was based that the mail bag had been despatched at 11.00 Hr. This is the crux of the whole matter. In case the bag was despatched at 11.00 Hr. the applicant is obviously responsible for its loss as he was supposed to be on duty at 11.a.m. However, if the bag was despatched at 12.00 Hr. as contended by the applicant

in accordance with the due mail and sorting list Annexure A-6, then the applicant was not on duty at that time and he cannot be held responsible for the loss. Since the Reviewing/Revising Authorities have not indicated any evidence on which the finding/ that the bag had been despatched at 11.00 hrs. is based, it is not possible to sustain those orders.

5. We accordingly allow the application partly, set-aside the orders of Reviewing Authority dated 14.2.85 Annexure A-4 & 10.7.86 Annexure A-5, and direct the P & P Board to reconsider the Review Petition filed by the applicant and determine afresh on the basis of evidence as to whether the bag was actually despatched during the duty hrs. of the applicant or not and then pass appropriate orders in accordance with law. They are directed to pass a fresh order on the Review Petition within a period of 4 months of this order. Parties to bear their own costs.

*G.Krishna*  
(GOPAL KRISHNA)  
Judl. Member

*D.B. Rajan*  
(D.B. RAJAN)  
Adm. Member

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Anil