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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR.

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Date of Decision: August 26, 93.

OA 982/92
(JA 482/88)

R.S. RAWAT

... APPLICANT.

Vs.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

HON. MR. B.B. MAHAJAN, ADMINISTRATIVE MEMBER.
HON. MR. GOPAL KRISHNA, JUDICIAL MEMBER.

For the Applicant

... SHRI H.N. CALIA.

For the Respondents

... SHRI PRAVEEN BALWADA.

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

The applicant, R.S. Rawat, has filed this application u/s 19 of the Administrative Tribunals Act, 1985, against the order dated 16.2.88, by which decision was conveyed to initiate disciplinary proceedings against him and the order dated 23.5.88, by which the Enquiry Officer was appointed to inquire into the charges against him.

2. The applicant was working as BSO when the deficiency of steel weighing 1261 Kg., amounting to Rs.3,378.90 occurred. After holding a court of enquiry, the Garrison Engineer, Dehradun, issued a letter to the applicant on 13.9.85 (Annexure A-2) informing him that the Commander Dehradun Sub Area has ruled that 20% of the 50% of loss i.e. Rs.775.78 in all is to be borne by him and he was

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asked to deposit the amount in the treasury. The applicant asked for a copy of the findings of the court of enquiry vide Annexure A-3. The same however was denied to him vide Annexure A-4, and he thereafter deposited the amount (Annexure A-5). A letter was subsequently written to him asking for his version on the complaint for the purpose of deciding whether enquiry proceedings should be held against him (Annexure A-6). He sent his reply vide Annexure A-7. Thereafter, a charge-sheet was issued to him vide Annexure A-8 dated 11.2.88. Vide an order dated 16.2.88, it was decided to initiate common proceedings against the applicant and one Shri P.D. Baurai, Store Keeper, and by the order dated 23.5.88 (Annexure A-10), Enquiry Officer was appointed. Vide an interim order of the Tribunal dated 3.3.88, the operation of these orders Annexure A-9 and A-10 was stayed.

3. We have heard the learned counsel for the parties. The learned counsel for the applicant has referred to Rule 11 of the CCS (CCA) Rules, 1965, which provides for recovery from pay in the whole or in part for any pecuniary loss caused by an official to the Government by negligence or breach of orders as one of the penalties. His contention is that once this minor penalty was imposed on the applicant by order dated 13.9.85 (Annexure A-2) asking him to deposit 20% of the 50% of the loss caused to the Government by his alleged negligence, the Disciplinary Authority could not subsequently initiate a fresh enquiry against him under Rule 14 of the Rules for imposing a major penalty. The learned counsel for the respondents has not been able to show any provision in the rules under which where a punishment is imposed under these rules a fresh enquiry can be

held. There is of course a provision for revision in Rule 29 and of review in Rule 29-A. However, the impugned orders do not purport to have been passed under either of these rules. The learned counsel for the respondents has argued that the order Annexure A-2 is not an order of penalty. It is only an order of recovery of the loss caused to the Govt. due to the negligence of the applicant. He has referred to Rule 160 (b)(ii)(dd) of Financial Regulations Part I, extract at Annexure R/1, which says that Govt. servant may be allowed, but cannot be compelled to make good the loss in whole or in part. He states that the applicant had only been allowed to make good part of the loss under this provision and no penalty was imposed upon him. There is however no force in this plea, as in the Annexure A-2 dated 13.9.85 it is nowhere stated that the applicant has only been allowed to make good part of the loss at his option. It clearly amounts to imposition of penalty amounting to recovery of a part of the loss from the applicant.

4. In view of the above, we allow this application and quash the orders dated 16.2.88 (Annexure A-9) and dated 23.5.88 (Annexure A-10) and direct that no enquiry shall be held in pursuance of the charge-sheet Annexure A-2. The parties to bear their own costs.

G. Krishna
(GOPAL KRISHNA)
MEMBER (J)

B.B. Mahajan
(B.B. MAHAJAN)
MEMBER (A)