

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH  
AT HYDERABAD

46

ORIGINAL APPLICATION NO.785/91

DATE OF JUDGEMENT

95 JULY, 1992

BETWEEN

Sri G. Dakappa

.. Applicant

A N D

1. The Superintendent of Post Offices  
Mahabubnagar

2. The Director of Postal Services,  
Hyderabad Region  
Hyderabad

.. Respondents

Counsel for the Applicant :: Mr S. Ramakrishna Rao

Counsel for the Respondents :: Mr N. Bhaskara Rao

Addl.CGSC

CORAM:

HON'BLE SHRI P.C. JAIN, MEMBER(ADMN), PRINCIPAL BENCH

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

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JUDGEMENT OF THE DIVISION BENCH DELIVERED BY  
HON'BLE SHRI T. CHANDRASLKHARA REDDY, MEMBER(JUDL.)

This application is filed under Section 19 of the Administrative Tribunals Act by the applicant herein, to quash the orders of the first respondent ordering recovery of Rs.13,850/- from the pay of the applicant and pass such other order as this Tribunal may deem fit and proper in the circumstances of the case.

The facts giving rise to this OA in brief may be stated as follows:

1. The District Development Officer, Zilla Parishad Mahabubnagar in AP had purchased on 17.1.85, 30 nos. of 6 year NSCs VI issue. One of the said x 6 year NSC VI issue bearing No.G/1 015134 was encashed by the investor on 31.10.1988 for a sum of Rs.13,850/- out of which, the principal amount was Rs.10,000/- and the balance of Rs3850/- being the interest that had accrued on the sum of Rs.10,000/-.

2. The applicant herein was working as Postal Assistant in the Mahabubnagar Head Post Office and had officiated as Asst.Post Master, Savings Bank, Mahabubnagar HO on 7.12.88. While officiating as APM, SB, Mahabubnagar, the applicant signed in the 6 year NSC VI issue discharge journal on 7.12.88 for the NSC G/1 015134 which was for Rs.10,000/- denomination without scrutinising the original application and thus allowed a second time with-drawal of the said NSC for an amount of Rs.13,850/- by a third party who was a non-investor and who was not entitled for the same because of the act of one K.Ramulu who had acted fraudulantly. The Department thus sustained a loss of Rs.13,850/- as the applicant had permitted the second withdrawal of the amount on the said 6 year NSC VI issue bearing No.G/1 015134, by a third party who was a non-investor.

3. As the Department had sustained a loss of Rs.13,850/-, a charge memo was issued to the applicant, alleging that the applicant failed to maintain devotion to duty and that he was negligent in discharging his duties and his negligence had ~~been~~ caused to the Department a loss of Rs.13,850/- and calling the applicant to submit his representation, if any, as to why the said sum of Rs.13,850/- should not be recovered from the applicant. The applicant submitted his representation on 27.2.90 to the Superintendent of Postal Services, Mahbubnagar first Division who is the 1 respondent herein. The first respondent, after taking into ~~be~~ consideration the representation of the applicant and other material, issued proceedings dated 31.5.90 calling for recovery of Rs.13,850/- from the pay of the applicant at the rate of Rs.384/- p.m. in 35 instalments and the last instalment at Rs.410 with immediate effect. Aggrieved by against the order of the first respondent, the applicant preferred an appeal to the Director of Postal Services, Hyderabad Region, Hyderabad, (who is the 2nd respondent herein) on 24.7.1990, to set aside the order of recovery from the pay of the applicant. The Director of Postal Services, Hyderabad Region, Hyderabad (2nd respondent) vide his proceedings dated 16.5.91, dismissed the appeal / and confirmed the order of the Superintendent of Post Offices, Mahbubnagar imposed on the applicant. So, the present OA is filed by the applicant for the relief as indicated above.

4. Counter is filed by the respondents opposing this OA.

5. The following facts are not in dispute in this OA.

i) The 6 year NSC VI Issue bearing No.G/1 015134 had been purchased by the District Development Officer, Zilla Parishad, Mahbubnagar for an amount of Rs.10,000/-.

ii) The said NSC bearing No.G/1 015134 was encashed on behalf of the District Development Officer, Zilla Parishad, Mahbubnagar, on 31.10.88 for a sum of Rs.13,850/- together with the interest that accrued on the said NSC upto the period of encashment.

iii) The applicant had officiated as Incharge Asst.Post Master, SB Branch, Mahbubnagar on 7.12.88.

iv) The applicant as the Supervising authority, had permitted withdrawal of the sum of Rs.13,850/- for second time on 7.12.88 on the said NSC bearing No.G/1 015134, to a third party, who was a non-investor and who was not entitled for the same, due to the fraudulent act of one K.Ramulu.

The case of the respondents is that the applicant had acted negligently in permitting the said NSC G/1 015134 to be encashed by a third party for a second time, that the applicant was responsible to make good the said loss sustained by the Department. On the other hand, the case of the applicant is that he acted in good faith and was not responsible for the same.

6. When this OA was taken up for hearing on 26.6.92, on behalf of the respondents, xerox copies of the said NSC G/1 015134 and application for the purchase of the NSC VI issues dated 17.1.85 were produced before us. We have carefully perused the xerox copy of the said 6 year NSC VI issue G/1 015134 for the sum of Rs.10,000/- and also the said application dated 17.1.85 for the purchase of the said NSCs.

7. The photostat copy of the 6th issue NSC G/1 015134 under the portion 'Receipt on Discharge' clearly shows the signature of the investor on 31.10.88, which admittedly was

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the date of discharge and payment of sum Rs.13,850/-.

The date 31.10.88 has subsequently been corrected to 28.11.88 which correction does not have any significance.

Besides this, the APM, who was officiating on 31.10.88 had also initialled the same. It is also endorsed on the said NSC G/1 015134 that one Sri Sripadrao had received the contents.

8. A perusal of the photostat copy of the Application for the purchase of 6 year NSC VI issues dated 17.1.85 would show that there had been a discharge of the 6 year NSC VI issues G/1 bearing nos. from 015121 to 015150 on 31.10.88. So, the perusal of the 6 year NSC VI issue bearing No.G/1 015134 and also the said application for the purchase of NSC would have made it clear to the applicant who was officiating as APM, SB Branch, Mahbubnagar on 7.12.88, that the said NSC had already been encashed on 31.10.88. The applicant does not seem to have scrutinised the said NSC bearing No.G/1 015134 and the said application dated 17.1.85 for the purchase of the said NSC, which was the minimum care that was expected from the applicant. As the applicant had allowed the sum of Rs.13,850/-, to be drawn a second time on 7.12.88 on the said discharged NSC ~~inventor~~ <sup>by</sup> third party we have to infer negligence on the part of the applicant as the applicant was the supervising authority for the payment of the same to ~~the~~ third party who was a non-investor. The case of the applicant that he has acted bona fide in allowing payment a second time on the said discharged NSC, can not at all be accepted in view of the facts and circumstances of the case.

9. Learned counsel appearing for the applicant maintained that in case of discharge of NSC, the oblong stamp impression is put with the date of discharge as required under the relevant instructions and such type of oblong stamp impression with endorsement of discharged

To

1. The Superintendent of Post Offices, Mahabubnagar.
2. The Director of Postal Services, Hyderabad Region, Hyderabad.
3. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
4. One copy to Mr.N.Bhaskar Rao, Addl. CGSC.CAT.Hyd.
5. One copy spare.

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Mobile  
Date  
14/7/92

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date is not found on the said NSC and so it is quite possible that the applicant might have acted in good faith. Even in the absence of any such oblong stamp impression with the date of discharge endorsement, in view of the endorsement on the said NSC on behalf of the investor stating that "Received Contents- Sripad Rao" which is made by one Sripad Rao and in view of the investor's signature with the receipt as having received the sum of Rs.13,850/- in the portion pertaining to 'Receipt on Discharge' of the said NSC G/1 015134, it is not open to the applicant to contend that he had acted bona fide. As already pointed out, in the said application for purchase of NSCs dated 17.1.85, there is also a reference with regard to the discharged NSCs which also includes the NSC No.G/1 015134.

10. So, the applicant, as already pointed out, does not appear to have taken care to look into the said NSC G/1 015134 and the application dated 17.1.85 for the purchase of the said NSCs before allowing the payment <sup>at</sup> ~~at~~ second time to a third party (who was not the investor and who was not entitled for the same) on 7.12.88 on the discharged NSC dated 31.10.88, which in this case is G/1 015134. The fact, that the Department has sustained a loss of Rs.13,850/- due to the negligence of the applicant can not at all be doubted. We see no error on the part of the Department in issuing proceedings for recovery of the said amount from the pay of the applicant in instalments. We see no merits in this OA and this OA is liable to be dismissed and is accordingly dismissed with no order as to costs.

*T - Chandrasekara Reddy*  
(T.CHANDRASEKHARA REDDY)  
Member(Judl.)

*(P.C. Jain)*  
(P.C. JAIN)  
Member(Admn)

Dated: 9/7/1992

mvl

*8/7/1992*  
Deputy Registrar (5)

TYPED BY

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CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH.  
THE HON'BLE MR.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY : MEMBER (J)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (J)

Dated: 9 - 7 - 1992

ORDER / JUDGMENT

P.A./C.A./M.A. No.

in

O.A. No. 785/9)

T.A. No.

(W.P. No. )

Admitted and interim directions  
issued

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

pvm.

