

(21)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. NO. 126 OF 1993

Between:

P.Venkaiah

...

Applicant

And

The Union of India
Represented by its Secretary
Ministry of Communication
New Delhi and another

...

Respondent

COUNTER AFFIDAVIT

I, K.Sandhya Rani, Daughter of K.Papa Rao aged about 31 years, occupation Govt. Service resident of Hyderabad do hereby solemnly and sincerely affirm and state as follows:

1. I am the Assistant Postmaster-General in the Office of the Chief Postmaster General, Hyderabad and as such am well acquainted with the facts of the case.
2. I have read the Original Application filed by the above named applicant and I deny the several material allegations made therein except those that are specifically admitted herein.
3. Before traversing in detail the several material allegations, averments and contentions made therein, I beg to submit as follows:-
4. It is submitted that one ~~Ex~~M.L.Ganesh Agarwal, Branch Postmaster, Vallipedu B.O., A/W Vidyanagar Sub-Post Office committed SB/RD fraud to the tune of Rs.17,887-92 during the period from 30-11-1988 to 17-2-1992. It is further submitted that the Branch Postmaster accepted certain deposits in SB/RD Accounts. After making necessary entries in the Pass Book ~~by~~ he failed to reflect the corresponding transaction in B.O. SB/RD journal and also in the B.O.Account.

सहायक लेखा अधिकारी (बजट)
Assistant Accounts Officer (Budget)
मुख्य पोस्टमास्टर जनरल का कार्यालय
Office of the Chief Postmaster General,
जि.प्र. परिमंडल, हैदराबाद-500 001.
A.P. CIRCLE, HYDERABAD-500 001.

DEPONENT

22

5. It is further submitted that the applicant herein is the concerned mail overseer having jurisdiction over the Vallipadu B.O. and worked from 1-9-1989 to July, 1991. The applicant visited the B.O. on 10-3-1990, 6-9-1990 and 2-2-1991 but he failed to verify the accounts and detect the fraud that was identified by the Second respondent herein. As a subsidiary offender disciplinary proceeding under Rule 16 of CCS (CCA) Rules 1965 were initiated against him on 20-7-1992 vide Memo. No.F4/2/91-92 and it resulted in imposition of recovery of an amount of Rs.5,500/- from the salary of the applicant in 22 monthly instalments of Rs.250/- each vide Memo. dated 30-11-1992. It is further submitted that one copy of Charge Sheet and final proceedings are submitted to the applicant.

6. In reply to para 4 & 5 it is submitted that the applicant has not preferred for an appeal or moved a petition as required under CCS (CCA) Rules, 1965. The applicant moved the present application to this Hon'ble Tribunal without exhausting the remedy available for redressal of his grievance. On this ground also the application is liable to be dismissed as per Section 20 of the CAT Act 1985.

7. In reply to para 6(d) it is submitted that the duties of the Mail Overseer are prescribed in the questionnaire. The Mail Overseer has to carry out the checks as prescribed in it.

8. In reply to para 6(e) it is submitted that whenever there is change in the duties, instructions are issued to all the Mail Overseers and also to Sub-Divisional Inspectors for ensuring compliance.

9. In reply to para 6(f) it is submitted that the changes in the functions have not altered the contents of the questionnaire referred to in para 6(d).

सहायक वित्त अधिकारी (बजट)
Assistant Accounts Officer (Budget)
मुख्य वित्त अधिकारी, वल्लिपट्टी
Office of the ATTESTOR
ज.प्र. परिमंडल, देवगिरि-500 001.
A.P. CIRCLE, HYDERABAD-500 001.

[Signature]
DEPONENT

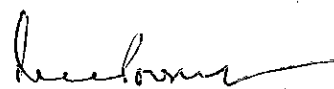
23

10. In reply to para 6(g) it is not correct to state that the applicant was made to understand that the minimum limit for checking the Savings Bank balance during the visit to the B.O. is five account subject to exigencies. No such instructions was issued. The complainant has not also produced any proof of having received such instruction. No amendment to the questionnaire was issued so far.

11. In reply to para 6(h), it is submitted that the Mail Overseer's diary is reviewed by the Sub-Divisional Inspector and instructions, if any needed are conveyed to him either in writing or orally. After necessary action, the diary is recorded in the office of the Sub-Divisional Inspector.

12. It is submitted that the complainant is at liberty to ask for perusal of documents referred to in the charge sheet to prepare his defence and production or perusal of such required documents is governed by the provisions of CCS(CCA) Rules, 1965 and orders/instructions issued thereto. However, he did not make any request for giving him such an opportunity. Hence the question of non-availability of records for defending himself adequately does not arise. The allegation of refusal to allow access to records is denied. Rule-16(1)(a) of CCS(CCA) Rules, 1965 is not applicable in this case since it is not a case of withholding increment, etc. Moreover, the official has not requested for such an enquiry. In absence of any ground for holding an enquiry, it was not warranted.

13. It is submitted that the modus operandi adopted by the BPM is stated in the charge sheet itself. It is stated in the charge sheet that had the official carried out prescribed checks in respect of 10 pass books at each of the three visits,


सहायक अप्पेस्टोर (बजट)
Assistant Accounts Officer (Budget)
मुख्य पोस्टमास्टर जनरल का कार्यालय
Office of the Chief Postmaster General,
अ. प्र. परिमंडल, हैदराबाद-500 001.
A.P. CIRCLE, HYDERABAD-500 001.


DEPONENT

(24)

the fraud which was going on could have been detected much earlier and the loss to the department much less.

14. It is submitted that the Government has incurred loss of Rs.17,887.95 by sanctioning the claims of depositors whose money was ~~mis~~misappropriated by the BPM and there are no chances of recovering the entire loss from the BPM since he has no property. However, the amount of security (Rs.2,000/-) furnished by the BPM and arrears of monthly salary withheld when the fraud came to light, have been taken into account in arriving at the net loss to the department. Only a part of the net loss was ordered to be recovered from the petitioner. Recovery of the part of the loss was ordered only after coming to a conclusion that it was no more possible to recover the entire loss from the delinquent BPM.

15. It is submitted that the functional output of the Mail Overseer was in no way affected by the said re-organisation since the petitioner has taken one day for each visit to the B.O. and one day only was being given to him for such visits even before the organisation. The alleged instruction by the Inspector to curtail the number of checks on SB balance was never issued by the Inspector. The petitioner has not produced any proof.

16. It is submitted that three other officials found to be responsible for non-detection of the case have also been dealt with and recoveries of part of loss ordered from them.

In as much as the applicant has not made out any case much less a prima facie case even for admission and having regard to that he has got an effective alternative remedy, it is submitted that the original application be dismissed with cost.

Solemnly affirm and signed in this the day 2/8 of 1993.

DEFONENT

ATTESTOR
सहायक लेखा अधिकारी (बजट)
Assistant Accounts Officer (Budget)
मुख्य पोस्टमास्टर जनरल का कार्यालय
Office of the Chief Postmaster General,
आ.प. सर्किल, हैदराबाद-500 001.
A.P. CIRCLE, HYDERABAD-500 001.

BEFORE ME

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

O.A. NO. 126 OF 1993

Between:

P.Venkaiah .. Applicant

And

The Union of India
Represented by its Secretary
Ministry of Communication
New Delhi and another.. Respondent

Filed by:

N. V. Raghava Reddy



637/1993

N.V. RAGHAVA REDDY
ADVOCATE
Addl. Standing Counsel for
Central Government,
Central Administrative
Tribunal, Hyderabad.