

IN THE GOVERNMENT ADMINISTRATIVE TRIBUNAL - HYDERABAD BENCH : HYDERABAD

OA / RA / RA / CP / MA / DT 1227 of 1997

..... L. Balaiyah Applicant(s)

Versus

..... The Chief Post Master General, Respondent(s)
A.P. Circle, Hyd & 2 Bn.

INDEX SHEET

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Certified that this file is complete
in all respects.

8/8/97
Signature of
Dealing Hand
(In Record Section)

Signature of S.O.

Yashwant
Yashwant
Yashwant

Central Administrative Tribunal Hyderabad Bench, Hyderabad.

C.A. No.

1227

of 1997.

L. Balaih

Applicant(s).

VERSUS.

The Chief Post Master General, AP. & Ors.

Hud & 2 off.

(Respondents).

Date	Office Note.	ORDER
18-9-97		On disposal of at the admission stage itself. order on separate sheets. No costs. D Dr HBS SP MPS HAN M/A

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH : HYDERABAD

ORIGINAL APPLICATION NO. 1227 OF 1997.

L. Balaiyah

(Applicants(s))

VERSUS.

Union of India, Repd. by.

The Chief Post Master General

A.P. Hyderabad and others

Respondent(s).

The application has been submitted to the Tribunal by
Shri K.S.R. Anjaneyulu Advocate/party in
person Under Section 19 of the Administrative Tribunal
Act. 1985 and the same has been scrutinised with reference
to the points mentioned in the check list in the light of
the provisions in the administrative Tribunal (procedure)
Rules 1987.

The application is in order and may be listed for
Admission on -----

On
16/9/97
Scrutiny Asst.

Amr
DEPUTY REGISTRAR (JUD)

11. Have legible copies of the annexure duly attested
been filed. Yes

12. Has the applicant exhausted all available remedies. Yes

13. Has the Index of documents been filed and pagination
done properly. Yes

14. Has the declaration as required by item No. 7 of
form. I been made. Yes

15. Have required number of envelops (file size) bearing
full addresses of the respondent's been filed. Yes

16. (a) Whether the relief sought for, arise out of
single cause of action.

..... (b) Whether any interim relief is prayed for, Yes

17. (c) In case an MA for condonation of delay in filed,
is it supported by an affidavit of the applicant.

18. Whether this cause be heard by single Bench.

19. Any other points.

20. Result of the Scrutiny with initial of the scrutiny
clerk. May be signed

Ar
16/1/93
Scrutiny Assistant.

Section Officer.

Deputy Registrar.

Registrar.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

Case No. 2973/93

Report in the Scrutiny of Application.

Presented by Mr. K. S. R. Anjaneyulu Date of Presentation 15/1/93

Applicant(s) L. Balanah

Respondent(s) The CPMG, P.P. Hyd 6200

Nature of grievance Dismissal from Service

No. of Applicants 1 No. of Respondents 3....

CLASSIFICATION

Subject..... No Department..... Postal..... (No)

1. Is the application in the proper form, (three complete sets in paper books form in two compilations). Yes
2. Whether name description and address of all the parties been furnished in the cause title, Yes
3. (a) Has the application been fully signed and verified. Yes
(b) Has the copies been duly signed. Yes
(c) Have sufficient number of copies of the application been filed. Yes
4. Whether all the necessary parties are impleaded. Yes
5. Whether English translation of documents in a language other than English or Hindi been filed. Yes
6. Is the application on time, (See Section 21). Yes
7. Has the Vakalatnama/Memo of Appearance/Authorisation been filed. Yes
8. Is the application maintainability. (U/S 2, 14, 18, or U/R. 8 Etc.,) Yes
9. Is the application accompanied IPO/DD, for Rs.50/- Yes
10. Has the impugned order's original, duly attested legible copy been filed. Yes

P.T.O.,

CENTRAL ADMINISTRATIVE TRIBUNAL (YARD-34) BRANCH: HYDERABAD

INDEX SHEET

OA. NO. 1227 OF 1997.

CAUSE TITLE L. Balach

VERSUS

In CEMU, Al, Nud & 20t

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6.	Covers 3. A	

Regd. - To declare the order of Respondent No. 2 issued in memo² dated 29.8.1997 imposing the punishment of dismissal from service on the applicant as illegal.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNALS

ACT, 1985.

O.A. No: 1227 of 1997.

dismissal from Service

Postal C.C.

Bench Case

Between:

L. Balaiah

.. Applicant.

and

Union of India represented by
C P M G & 2 others.

.. Respondents.

I N D E X

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03. Superintendent of Post Offices KNL Memo No: Inv/F7-1/93/II dated at KNL 13.12.1993 (Copy (Charge Memo)	02	26	27 to 34
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Subsahreeeyan

COUNSEL FOR THE APPLICANTS.

Registered on

Dated:



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH AT
HYDERABAD.

O.A.No: 1227 of 1997

Between:

L. Balaiah

... Applicant.

and

Union of India represented by
C.P.M.G. and 2 others.

... Respondents.

CHRONOLOGY OF EVENTS

Sl. No.	Date	Event
01.	13.12.1993	Charge memo was issued against the applicant.
02.	27.01.1997	Inquiry report submitted by I.O.
03.	06.03.1997	Superintendent of Post Offices differed with the Inquiry Officer and gave notice.
04.	29.08.1997	Director of Postal Services, Office of Post Master General, Kurnool issued punishment order.

N. Balaiah
COUNSEL FOR THE APPLICANT.

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: :HDERABAD BENCH AT

HYDERABAD.

O.A.No: 1227 of 1997.

Between:

L. Balaiah son of Late L. Subbanna
aged 51 years, Ex. Postal Assistant,
Adoni Head Post Office, now residing
at Dhone, H.No: 4-51, Dr. Sunder Singh
Colony, Kurnool District.

.. Applicant.

and

Union of India represented by:

1. The Chief Post Master General,
Andhra Pradesh Postal Circle,
Hyderabad.

2. The Director of Postal Services,
Office of the Post Master General,
Kurnool Region, Kurnool.

3. The Superintendent of Post Offices,
Kurnool Postal Division, Kurnool.

.. Respondents.

Address for service: K.S.R. ANJANEYULU
D. SUBRAHMANYAM
Advocates, 1-1-365/A
Jawaharnagar, Bakaram,
HYDERABAD 500 020.

Details of the Application:

1. Particulars of the order against which this application
is filed:

The application is filed against the order of the
Director of Postal Services, Office of The Post Master General,
Kurnool Region, Kurnool (Respondent No: 2) issued in Memo
No: ST/IV/R-14/LB/97 dated 29.08.1997 (Annexure 1 Page 19)
imposing the punishment of Dismissal, arbitrarily and without
jurisdiction.

2. Jurisdiction:

The applicant declares that subject matter of the
order against which the applicant seeks relief is within the
jurisdiction of this Honourable Tribunal as per Section 14 of
the Administrative Tribunals Act, 1985 as the applicant worked
as Postal Assistant at Adoni Head Post Offices before the
punishment was imposed on him.

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Non-bailable

Non-bailable

3. Limitation:

The applicant further declares that the application is within the period of Limitation as per Section 21 of the Administrative Tribunals Act, 1985. The impugned order is dated 29.08.1997.

4. Facts of the case:

4.1. The applicant humbly submits that he was initially recruited as Time Scale Postal Assistant and was given one time bound promotion scheme (OTBP) in the year 1987. He was working as OTBP Postal Assistant at Adoni Head Post Office when the cause of action arose for this application. A Memo of charges under Rule 14 of CCS CCA Rules was issued against the applicant by the Superintendent of Post Offices (Respondent No: 3) in his memo No: Inv/F7-1/93/11 dated at Kurnool 13.12.1993 (Annexure 2 Page 24). The three articles of charge against him read as follows:

ANNEXURE I

Statement of Articles of charge framed against Sri L. Balaiah, Sub Post Master, Dhone LSG SO (Under suspension).

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ARTICLE I

That the said Sri L. Balaiah, while working as Sub Postmaster, Dhone LSG S.O. for the period from 13.5.1989 to 13.1.1992 had charged a withdrawal of Rs. 33,000/- in SB A/c. No: 191742 on 12.12.1991, while the pass book shows that the transaction had taken place on 18.12.1991. The depositor also had stated that he had not sought any withdrawal either on 12.12.1991 or on 18.12.1991. Thus it is alleged that Sri L. Balaiah, SPM, Dhone had falsified the records of savings

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bank and thus failed to maintain absolute integrity contravening the provisions of Rule 3(i) (i) of CCS (Conduct) Rules, 1964.

ARTICLE II

That the said Sri L. Balaiah, while working as Sub Post Master, Dhone for the period from 13.5.1989 to 13.1.1992 had made the withdrawal entry of Rs. 33,000/- in SB Ledger of SB Account No: 191742 without getting the signature of SB P.A. attested infringing Rule 29 of Chapter 4 of Hand Book on Postal Saving Bank, which prescribes that the each entry of transaction should be attested by the initials of the SPM is to be noted by the SB PA, the signature of SBPA only, the SPM had to note the balance of column only. Thus it is alleged that Sri L. Balaiah has failed to maintain absolute devotion to duty contravening the provisions of Rule 3(i)(ii) of CCS (Conduct) Rules, 1964.

ARTICLE III

That the said Sri L. Balaiah, while working as SPM, Dhone during the period from 13.5.1989 to 13.1.1992 had not correctly verified the signature of the depositor of SB A/c. No: 191742 in the withdrawal from dated 12.12.1991 for Rs. 33,000/- as the depositor has disowned the signature appearing on the withdrawal form. Thus it is alleged that Sri L. Balaiah had failed to maintain absolute devotion to duty contravening Rule 3 (i) (ii) CCS (Conduct Rules, 1964).

Sd/-
(A.C. THIRAPATHY)
Supdt. of Post Offices,
Kurnool Division : Kurnool.

4.3. It can be seen from the above that all the three articles of charge relate to a single transaction of withdrawal of Rs. 33,000/- from SB Pass Book A/c. No: 191742 belonging to

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one Sri B. Purushottam depositor. The allegation is that the date of withdrawal of the amount was shown as 12.12.1991 in the accounts of the Post Office, whereas in the SB Pass Book of the depositor, the date of withdrawal was shown as 18.12.1991. It was therefore alleged that the applicant falsified SB records (Article 1) paid the amount without the SB PA attesting the specimen signature, (Article 2) and not correctly verified the signature of the depositor in the withdrawal form as the depositor disowned that signature during the preliminary investigation (Article 3).

4.4. The applicant denied the charges and an inquiry was held. After completion of the inquiry the inquiry officer submitted his report (Annexure 3) ^{Page 33} to the disciplinary authority. The same was furnished to the applicant on 6.3.1997 under Superintendent of Post Offices letter Inv./F7-1/93/10 dated 6.3.1997 with disagreement by the Superintendent of Post Offices ^(Annexure -4 Page 59) on the findings of the Inquiry Officer. The Inquiry Officer after extensively dealing with the evidence adduced in the ^{held} inquiry, held as follows:

Charge I:

As the depositor ^{has} admitted to have received payment at the counter the article I of the charge is Not Proved.

Charge II:

The charge regarding bringing into account, fictitious transaction. Not proved and the making entry in the ledger and initialling in the place of PA proved.

Charge III:

In this case, the depositor, a Police Constable, is well known to the SPM and PO Staff and the depositor has accepted

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his signature on SB-7 (S.Ex-2) as that of his own and also accepted to have received the amount from the counter, though there is a difference in the signature. The SPM is competent to allow the withdrawal if there is difference in signature of Depositor, if ~~xxx~~ the depositor is known to SPM. Article III of the charge is not proved as it is not a fictitious transaction.

The applicant submits that the findings of the Inquiry Officer are legal and valid and based on evidence adduced in the inquiry. With regard to part of ~~in~~charge in Article II, the inquiry officer contended that the applicant irregularly initialled in the column provided for the signature of the PA which was agreed by the applicant in the inquiry. It is only a human error and there was absolutely no ~~malafide~~ intention and nothing ~~xxx~~ has been attributed to the applicant. As such this element of charge will not constitute misconduct.

4.5. The Superintendent of Post Offices in his difference of opinion stated as follows:

Article I: I do not agree with the finding of the Inquiry Officer. Sri B. Purushottam S.W.I, the depositor of S.B. A/c. 191742 being a Government Employee working in the Police Department, who was also aged 48 years as on the date of recording his statement on 16.02.1993, cannot simply say now that the statement dated 16.2.1993, given by him was not written by him, that the contents were not read out to him that he was asked to sign on the statement and that he has affixed his signature. He concluded by saying that he would not agree with the contention of the Inquiry Officer. The witness deposed before the Additional Subordinate Judge on

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8.8.1997 in O.S. No: 138/92 (Annexure 5 Page 78), that the signature shown to him in Exhibit C-4 (withdrawal form) was made by him and it is not true to suggest that the signature in exhibit C-4 was not made by him, and it is also not true to suggest that in order to help the defendant he is deposing falsely. The evidence of witness is consistent both in the civil court where a suit was filed against the applicant for recovery of the amount and also in the departmental inquiry. The disagreement of the disciplinary authority is merely on ground of suspicion and is not supported by any evidence. The disagreement by Superintendent of Post Offices is wholly untenable and perverse. The conclusion drawn by the Superintendent of Post Offices is contrary to evidence adduced in the inquiry. In regard to second charge, the Superintendent of Post Offices stated, that the aspect was already discussed that Sri B. Purushotham was won over by the applicant and P.W.1 turned hostile and as such the statement recorded the preliminary inquiry speaks the facts based on documentary evidence. Hence ~~hold~~ the charge as proved.

4.6.2. The disciplinary authority has not given any valid reason or discussed any evidence. It should also be noted that after declaring P.W.1 as hostile, he was cross examined extensively and nothing could be elicited in support of the charge. The contention of the disciplinary authority that the statement recorded during ~~is~~ the preliminary inquiry is to be relied is wholly irrational, improper, untenable and unacceptable to any proposition of law. (Annexure-6 Page 80)

4.6.3. As regards the article III, the Superintendent of Post Offices mechanically held that the amount was not actually paid to the depositor on 12.12.1991 and the same was paid to the depositor subsequently. This is contrary to the evidence of P.W.1 in the inquiry who categorically deposed that he received the amount on 12.12.1991 after signing the withdrawal from and from the cash counter of the post office. There is

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nothing to disbelieve his statement. He is a responsible police officer and there was no complaint from him. He cannot be considered as "Won Over" as he did not oblige the prosecution evidence. This clearly shows that the charge is deliberately foisted against the applicant with some ulterior motive and predetermined because the P.W.1 deposed in the Sub Judge Court there in civil case which did not please the Superintendent of Post Offices and Superintendent of Post Offices was also examined in the ~~civil~~ court on 10.12.1996, prior to the Departmental enquiry.

4.7.1. The applicant submitted his representation on 24.03.1997 (Annexure 7 Page 8b) stating interalia that the ~~principal~~ witness (P.W.1) stated before the inquiry officer on 13.8.1996, that he was paid on the date appearing on the voucher, i.e. transaction took place and the contents of the voucher were not disputed, the withdrawal was accounted for records, the withdrawal was accounted for records, the withdrawal was genuine and took place on 12.12.1991 and the charged official was in no way connected with the corrections seen in the pass book. The Inquiry Officer correctly held the charge not proved after proper evaluation of the evidence adduced in the inquiry. The disciplinary authority erred in holding that the charge was proved on extraneous and irrelevant conclusions. This is in gross violation of principles of natural justice and his decision ~~is~~ is untenable as his findings are not based on the evidence adduced in the inquiry.

4.7.2. With regard to second charge the finding of the disciplinary authority that the witness was won over is unacceptable and devoid of merit. It is a predetermined conclusion and has been observed as there is no other valid

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and acceptable evidence in support of charge. Inspite of declaring the witness as hostile and cross examining him at length, the witness consistantly held that he received the amount at the counter and the transaction took place on 12.12.1991. So the finding of the Inquiry Officer was right in declaring that the charge was not proved.

4.7.3. With regard to the third article of charge it was categorically held by the Inquiry Officer that the charged official was in no way connected with the corrections appearing in the date stamp in the pass book and nothing can be attributed to the applicant. There was nothing to contradict the findings of the inquiry officer. The charge cannot be held to have been proved and the disciplinary authority erred in holding the charge as proved.

4.7.4. The applicant further submitted that there was a criminal case and civil case filed by the Department, CR No: 136/92 filed in the court of Sub Judge, Kurnool. The charge in the criminal case is materially and substantially the same as in the Departmental inquiry. The O.S. was filed for the recovery of the amount. The disciplinary authority was examined as a witness on 10.12.1996 in the civil suit before Additional Subordinate Judge, Kurnool. The applicant urged that it would ^{not} be ~~fair~~ for him to proceed with the departmental inquiry when the criminal case for the same is pending before the Magistrate. He also requested the disciplinary authority not to finalise the disciplinary case till the finalisation of criminal proceeding.

4.8.1. The Director of Postal Services Office of the Post Master General, Kurnool region who is the proper appellate authority in respect of the applicant usurped and assumed the

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role of the disciplinary authority and finalised the proceedings by her Memo No: ST-IV/R-14/LB/97 dated 29.8.97. The reason given is "since the proceedings are for major penalty and the official being a TBOP appointed to the cadre before ~~divisionalisation~~ divisionalisation, the undersigned has takenup for finalisation". This contention is misconceived and without any basis. It is submitted that the Director of Postal Services is not the prescribed ^{disciplinary} authority under the rules. He is only appellate authority. The applicant is admittedly a Postal Assistant and on completion of service of 16 years to each and every one the higher scale of pay is conferred as an incentive. He continues to be on the cadre strength of Postal Assistants and the disciplinary authority is Superintendent of Post Offices. The Director of Postal Services was the appointing authority to regular LSG which is a promotion to the T/S P.A.s before introduction of TBOP. It was further submitted that the TBOP was never circle cadre. The regular LSG Cadre which was hitherto a circle cadre has been subsequently divisionalised and the Superintendent of Post Offices is the disciplinary authority even to the regular LSG cadre now. The applicant has not been promoted to regular LSG Cadre. As such the Director of Postal Services has no jurisdiction over the applicant either before or after the divisionalisation (of regular LSG Cadre). It is further

4.8.2 It is further submitted that the Superintendent of Post Offices as competent authority, exercised his jurisdiction under rules and after obtaining inquiry report, he has disagreed with the findings of the inquiry officer and furnished the same to the applicant for his representation. If he is not the prescribed disciplinary authority he ought not have examined the inquiry report and gave his disagreement. By doing so

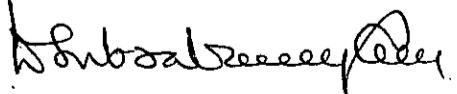
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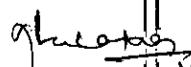
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he has already acted upon as the disciplinary ~~author~~ authority. After the applicant submitted his ^{claim} represented against the disagreement given by the Superintendent of Post Offices the Director of Postal Services suddenly and abruptly usurped the powers of the disciplinary authority without jurisdiction and stated that Superintendent of Post Offices has already disagreed with the findings of the Inquiry Officer and she is finalising the case and imposed the punishment of 'dismissal'. There is no independent application of mind by the Director of Postal Services. She mechanically adopted the disagreement of the Superintendent of Post Offices and was influenced by it. The order is therefore vitiated as there is no independent application of mind by her. Even otherwise there cannot be two disciplinary authorities, one to disagree with the findings of the Inquiry Officer and the other to impose the punishment. This is apparently wrong and opposed to canons of law. Only the Superintendent of Post Offices is vested with the authority by statute. The exercise of power by Director of Postal Services without authority vested in her is impermissible and illegal. The punishment is liable to be set aside on this ground alone. Where the dismissal order is passed by Director of Postal Services is ex facie illegal, there cannot be appeal an illegal order. Under rules, the Director of Postal Services is alone the prescribed appellate authority. The applicant cannot make his appeal to any higher authority unless prescribed by the rules. It is also not stated by the Director of Postal Services in her order as to who will be appellate authority in the cass. The applicant is therefore left with no alternative than to approach this Honourable Tribunal for redressal of his grievance.



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4.8.3. Without prejudice to the above contention by the applicant it is submitted, that the findings given by the Director of Postal Services are erroneous, mechanical and not based on the evidence adduced in the inquiry.

4.8.4. The contention of the Director of Postal Services that the disciplinary authority namely the Superintendent of Post Offices has forwarded the inquiry report along with his disagreement to the official on 6.3.1997 is true. Having so stated, she should have left the case to be finalised to the same disciplinary authority who disagreed with the findings of the Inquiry Officer, to finalise the case. Instead she has taken the case for finalisation since the proceedings are for a major penalty and the official being TBOP appointed to the cadre before divisionalisation." As submitted earlier the TBOP Official continues to belong to the cadre of Postal Assistants and does not belong to LSG Cadre. The Superintendent of Post Offices alone is the disciplinary authority for Postal Assistants (Time Scale and Time bound) and Director of Postal Services is the appellate authority. The cadre divisionalised was LSG Cadre and not Postal Assistants cadre. The contention of Director of Postal Services is therefore erroneous and contrary to rules.

4.8.5. The finding of the Director of Postal Services that the statement recorded immediately after the incident is to be given evidential value is wholly absurd and untenable. The preliminary investigation was conducted in the case on 16.2.1993, while the incident relates to 12/18.12.1991. Hence it is not true to state that the statement was recorded immediately. If the statement recorded in the preliminary investigation alone is to be taken, the regular inquiry is only an empty formality. Such a proposition cannot be accepted in law. The finding given by the Director of Postal Services on

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the basis of the statement given in the preliminary investigation is wholly unsustainable in law and is to be set aside.

4.8.6. With regard to second charge, it is true that the applicant has made entry in the SB Ledger in place of PA and this was made when the ledger PA was not available at the counter for a short period. This is normally done and the work cannot be made to suffer due to absence of the PA for a short period. The transaction is proved to be genuine in the inquiry and the Inquiry Officer gave his well founded decision. The rules regarding the maintenance of SB Ledger is not disputed. The circumstances under which the ledger entry was made were only explained. The contention of the Director of Postal Services that there were other clerks who could attend to this transaction when the SB counter clerk was absent does not stand to reasoning when other clerk could attend to, nothing prohibits the applicant to attend to it in the exigencies service. This clearly shows that there is a bent of mind to victimise the applicant on some pretext or other. When the transaction is found to be genuine, usurping the responsibility of the P.A. by the SPM does not arise. The SPM attended to it in the absence of SB counter clerk as any one else has to do it. There can be no motive attributed to the applicant. The finding that the charge is held to be conclusively proved is improper, irrational and untenable in law. That on the other hand the finding is one sided predetermined and vindictive.

4.8.7. The contention of the Director of Postal Services that the depositor should be identified by a person known to the ^{Stamp} Post Offices, but this procedure was not followed is wholly incorrect in the facts and circumstances of the case.

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Admittedly the P.W.1 is a responsible Police officer and known to the staff of the Post Office including SPM. The depositor (P.W.1) has also admitted in the inquiry that the signatures are his own and he has received the amount at the counter. He consistently held so even in the cross examination after declaring him hostile. There is no reason to disbelieve the evidence of P.W.1. The Government cannot discredit their own witnesses stating that he was won over; when the witness as a responsible Police officer tends to tell the truth. Such a tendency has not only to be discouraged but condemned in the eye of law. There is no gainsay in the contention that the applicant has not verified the signature on the withdrawal known from when P.W.1 admitted his signature and known to all.

4.8.8. The Director of Postal Services contended that the Inquiry Officer held the charges not proved and the Superintendent of Post Offices, Kurnool differed with the Inquiry Officer's findings that there are two cases one in the criminal court and the other in the civil court are pending. The departmental inquiry is for violation of departmental rules and there is no bar to finalise the departmental inquiry. It is held by the courts that the departmental inquiry and the criminal case cannot go together in respect of the same charge. Authorities have to wait till the decision of the Criminal Court 1992 (1) ATJ - 595. It was held "Even though there is no provision in CCS CCA Rules, when ^{We} analyse the scheme of code of Criminal Procedure, and the scheme of departmental proceedings under the Rules, it appears to us that it should be better for all concerned to stay the Departmental proceedings if the same matter is to be decided by the Criminal Court. For instance if both are taking place, and if the accused is exonerated in the Departmental proceedings but found guilty by the criminal court that would lead to a incongruous situation

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and the department would be at a loss to know what is to be done. On the other side in a criminal proceedings, the accused person can keep absolutely mute and silent till the end of the proceedings whereas in the Departmental proceedings such an attitude would prove disastrous to him. He will have necessarily to put forth his case in one form or other and thereby he will disclose his defence which may not prejudice him seriously in criminal case. For these reasons this Tribunal has consistently held that when the charge is the same, the departmental disciplinary authority should wait till the decision of the criminal court. The same view was also been taken by the Delhi Bench in two cases viz. Jaya Prakash Vs. Union of India 1991 16 ATC 214 and Hari Singh Vs. Commissioner of Police 1991 16 ATC 263. Merely stating that the Departmental Proceedings are for violation of rules does not stand the test of reasoning and approach to justice to be done.

4.8.9. Barring this the Director of Postal Service (who accordingly to the applicant is appellate authority) has not stated any other grounds than what the disciplinary authority (Senior Superintendent of Post Offices) has stated in his disagreed letter. There is absolutely no discussion of evidence adduced in the inquiry and did not state any material evidence in support of the contentions and conclusions reached by her. There is also no discussion for imposing such a severe, extreme and harsh punishment of dismissal. Is it justified when a criminal charge and civil suit are pending in the courts? This is a clear case of victimisation holding the applicant guilty. The disagreement given by the Superintendent of Post Offices and the punishment

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given by the Director of Postal Services without jurisdiction are unwarranted, unsupportable offending provisions of Article 14 of constitution, Article 14 and violative of Principles of Natural justice. When the inquiry officer held the charged not proved based on the evidence adduced in the inquiry it is not fair and not correct to hold the charges proved on the basis of statements recorded in the preliminary inquiry reducing the regular inquiry to an empty formality.

4.8.10. The applicant submits that he belongs to ST community and completed 32 years of service in the Department. He is having unemployed son and unmarried daughter. The punishment is unjustified and ^{Suffers} ~~supress~~ from patent irregularities and illegalities. The order of dismissal is liable to be set aside.

5. Grounds for relief with legal provision:

1. The order of dismissal passed by the Director of Postal Services (Annexure) is without jurisdiction.
2. The Superintendent of Post Offices as disciplinary authority disagreed with the findings of the inquiry officer. The Director of Postal Services imposed punishment usurping the role of the disciplinary authority. There can not be two disciplinary authorities.
3. The Director of Postal Services has not applied her mind independently to record any disagreement but mechanically adopted the version of Superintendent of Post Offices. Thus ~~xxx~~ there is no application of mind.

Bhimsingh

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4. The conclusions reached by the Superintendent of Post Offices and adopted by the Director of Postal Services are one sided biased and contrary to the evidence on record.
5. The inquiry officer after a detailed discussion of evidence adduced in the inquiry held that the charges are not proved on rational and legal basis.
6. The Superintendent of Post Offices and Director of Postal Services discarded the evidence adduced in the inquiry and discredited their own evidence of P.W.1 and relied on the statements recorded in the preliminary inquiry reducing the regular inquiry into a empty formality and nullify.
7. When criminal and civil cases are pending on the same set of facts departmental enquiry should necessarily be stayed, as observed and decided by the several courts discussed in para 4.

6. Details of remedies exhausted:

The order passed by the Director of Postal Services (Annexure 1) is without jurisdiction and ex facie illegal. The Applicant has no other effective alternative remedy than to approach this Honourable Tribunal.

7. Matters not filed previously or pending in the court:

The applicant declares that he has not filed any case relating to the matter or pending in any other court.

Subrahmanyam

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Subrahmanyam

8. Relief(s) sought for:

In view of the facts stated above, the applicant humbly prays, that this Honourable Tribunal be pleased to call for the records relating to the case and declare the order of the Director of Postal Services issued in Memo No: ST-IV/R-14/LB/97 dated 29.08.1997 (Annexure 1) imposing the punishment of dismissal from service on the applicant, as arbitrary, without jurisdiction, unlawful and unsustainable in law offending Article 14 of the Constitution of India and set aside the same. The respondents may be directed to reinstate the applicant into service with all consequential benefits such as pay and allowances continuity of service etc. and to pass such other order or orders as are deemed fit and proper in the circumstances of the case.

9. Interim orders if any prayed for:

Pending final decision on the application, the applicant seeks interim suspension of orders of dismissal issued by the Director of Postal Services, Office of Post Master General, Kurnool in Memo No: ST-IV/R-14/L B/97 dated 29.08.1997.

10. Not Applicable.

11. Particulars of the court fee of Rs. 50/- paid:

a. No. & Date of Postal order : 8.12. 217235 (1-9-91)
b. Post office of issue Meenayat Nagar Post office
c. Payable at Hyderabad GPO Rs. 50/- A

12. Enclosures:

Vakalat, Postal order and material papers as per
index.

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Alcibiades

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VERIFICATION

I, L. Balaiah son of Late L. Subbanna, aged 51 years, Ex. Postal Assistant Adoni Head Post Office, now residing at Dhone, Kurnool District, do hereby verify that the contents of paras 1 to 11 are true as per my knowledge and belief and that the contents of paras 5 and 8 are believed to be true as per legal advise and that I have not suppressed any material facts in the case.

L. Balaiah
SIGNATURE OF THE APPLICANT.

L. Balaiah
COUNSEL FOR THE APPLICANT.

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Annexure - I

DEPARTMENT OF POST : INDIA

Office of the Postmaster General, Kurnool Region, Kurnool-518 005
Memo. No. ST-IV/R-14/LB/97 dated at Kurnool-5 the 29th of Aug, 1997

State Police Head Constable, who has got such experience in
Read the following:-, deposes that the statement was not read
Over to him and that he signed the statement without any
force:-1. Memo. No. Inv/F7-1/93/11 dated 13-12-93 of Supdt. of POs,
Kurnool, Division, Kurnool, addressed to Sri L. Balaiah, Pur-
nachal, Sub. Postmaster, Dhone LSG, 60. (under suspension).
Exam/2. Inquiry Report dated 27-1-97 of Sri Syed Abdullah, ASPOs,
former In-charge Inquiry Officer, Kurnool West, Sub division in the
I.O. to D. Rule-14 case against Sri L. Balaiah, mentioned above. I.O.
I.O./3. Findings of the SPOs, Kurnool, dated 4-3-97 on the I.O.'s
Inquiry report. Statement (a)1. The I.O. has taken the I.O. to
I.O./3. Representation dated 24-3-97 of Sri L. Balaiah, submitted
without in reply to I.O.'s report and findings of SPOs, Kurnool.

5. Other connected records.

5.1. In-charge inquiry SPO-S, SW-2, has deposed that the
I.O. had withdrawn the cash from his SW-1 and the passbook on 12-12-91
and he was not aware of PROCEEDINGS. and also
he deposed that he was not aware of Sri L. Balaiah, but not to the
knowledge that he was withdrawn in this process. He also mentioned that
Sri L. Balaiah, formerly Sub. Postmaster, Dhone LSG, 60
(and present PA, Adoni, HQ) was proceeded against under Rule-14 of
CCB (CCA) Rules, 1965 in Supdt. of POs, Kurnool, Division, Kurnool
Memo. No. Inv/F7-1/93/11 dated 13-12-93. The official, in his
representation dated 21-12-93, requested for extension of time to
submit his representation and it was granted. On denial of
charges by the Govt. servant vide his representation dated 2-1-
94, the I.O./PO were appointed in the case. Sri Syed Abdullah,
ASPOs, Kurnool West, Sub division has conducted the inquiry and
submitted his report on 27-1-97. The disciplinary authority has
forwarded the inquiry report alongwith his disagreement to the
I.O. on 16-3-97. The I.O. has submitted his reply dated
24-3-97 on the Inquiry Officer's report. Since the proceedings
are for major penalty, and the official being a TBOP appointed to
the cadre before divisionalisation, the undersigned has taken up
the case for finalisation. I hold the charge of I.O. as proved beyond
doubt.

2. I have gone through the inquiry records, inquiry re-
port, reply of the official, and other connected records, above
mention and the following points are noted:-
(a) 1. The first charge against the official is that the
official has charged the withdrawal of Rs.33,000/- in SB account
No. 191742 on 12-12-91 in PO accounts, while the passbook shows
the date of transaction as 18-12-91. The manuscript date in the
passbook shows that this transaction has taken place on 18-12-91.
The question now is whether the transaction has taken place on
18-12-91 or 12-12-91. The PO sought a declaration that the SW-1
was hostile and be subjected to cross examination and this was
accepted by the I.O. Hence, his deposition during the inquiry
cannot be given any credence inasmuch as there are inconsis-
tencies in his deposition.

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cies in his deposition. He could not definitely say the actual date on which he received the withdrawal. He could not even say whether a male or female official was at the counter. The witness is not an illiterate or inexperienced. He, being a responsible Police Head Constable, who has got much experience in investigating crimes, deposes that the statement was not read over to him and that he signed the statement without going through it and this is untenable. He did not say as to the circumstances for placing his signature in the statement. Further, no evidence was brought in by the defence during the cross examination of the PW-2 to prove that the statement was recorded under inducement or threat. Hence, PW-1 deposition before the IO is to be discarded. Besides this, the statement recorded immediately after the incident is to be given evidential value. According to this statement (SE-1), the transaction had taken place on 18-12-91 and hence, this is to be taken as the correct date of withdrawal.

Smt. B. Munichandravalli Bai, SW-3, has deposed that she received only the withdrawal form but not the passbook on 12-12-91. This was reiterated in the cross examination also. She also stated that the amount was paid to Sri L. Balaiah, but not to the depositor and that the entries in the passbook were also made by Sri L. Balaiah as seen from the handwriting appearing in the passbook. In his deposition, the PW-1 deposed that he received the cash from the counter clerk but the PW-3, while replying, the Qn. 4 in cross examination, deposed that she had not given the amount to the PW-1 but it was given to the BPM (the Govt. servant). Further, Sri L. Balaiah has admitted that the entries were made by him in the passbook and no evidence is brought by the defence to deny his version. Hence, it is to be held that the transaction was charged to accounts on 12-12-91 and the amount was paid to the Govt. servant only. As revealed by the SE-1, the depositor received the amount on 18-12-91 and the entries in the passbook confirms the same.

From the foregoing, it is proved that the transaction had actually taken place on 18-12-91 whereas it was charged on 12-12-91 and therefore, I hold the charge I was proved, beyond doubt.

(b) The next charge is that the entry about the above withdrawal in SB ledger was made by the charged official himself instead of by the SB PA. This was not denied by the official. He explains that the ledger PA left the counter for a short period. No evidence is elicited from the PW-3 to prove this by his defence side. He further argues that there is no bad motivation in posting the entries in the passbook and SB ledger since the depositor accepted it as a genuine transaction. The Rules regarding maintainance of SB ledger, where there are 2 officials or more in an office, are clear. Dhone SO is an LSG office and if the SB counter clerk was absent for some time, there were other clerks who could attend to this transaction. As narrated

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For Article-I, the transaction shown to have taken place on 12-12-91 in the SB ledger has actually taken place on 18-12-91. This transaction was also made by Sri L. Balaiah himself but not by the depositor as deposed by SW-3. Hence, based on the version of the SW-3, non-production of passbook; taking payment of the withdrawal by the Govt. servant and admission of the Govt. servant of making entry in the ledger and passbook by himself, all go to show that the transaction on 12-12-91 is not a genuine one. If the ledger entries were got made by another PA, the transaction would have come to light on 12-12-91 itself. The department has therefore, fixed different responsibilities for the PA and the SPM. Usurping the responsibility of the PA by the SPM himself goes to show clearly the motive of the Govt. servant to cover up the irregular transaction. Hence, this charge is to be held as conclusively proved.

(c) The last charge against the official is that the charged official has not verified the signatures of the depositor in respect of the above transaction as the depositor disowned his signature on the SB-7. It is pertinent to note that the PW-3 deposed that depositor did not attend the counter vide her reply to Q.No.3 in cross examination. She also deposed in SE-5 that the withdrawal did not take place in her presence and that she did not give the amount to the depositor and that she did not verify the specimen signature. The large variation in the specimen signature and the signature on the withdrawal form is clearly visible to the naked eye. It is not a minor variation as argued by the official. It is clear from the SE-1 that the depositor has not signed any withdrawal form on 12-12-91 or on 18-12-91. The argument of the official is that the SPM has got discretion to accept the depositor's signature when they differ negligibly and to allow the withdrawal. This argument can be accepted only if the difference is very negligible but not when there is a large variation. The strokes, mode of writing in the specimen signature, application and receipt of payment are not similar. Besides this, the depositor has stated that he never gave any withdrawal form either on 12-12-91 or 18-12-91. Since the variation is large, the provisions of Rule-34 of PO BB Man. Vol.I are applicable in this case. According to this rule, the depositor should be identified by a person known to the postoffice but this procedure was not followed. By this, it is apparent that the official has not verified the signature on the withdrawal form with that on record. Hence, it is conclusively proved that the official did not verify the signature.

(d) The IO held the charges as not proved. But the SPOs, Kurnool held that the IO did not properly assess the evidence before giving his findings. The SPOs, Kurnool has differed with the findings of the IO and the official was communicated the reasons for such disagreement.

3. The further arguments of the official raised in the letter dated 24-3-97 are discussed below:-

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(a) The official argues that there are two cases, one in First Class Magistrate Court, Dhoni and another in Additional Subordinate Judge Court, Kurnool and the charges and the witnesses are one and the same and hence, the final decision is to be kept pending. The departmental inquiry was for violation of departmental rules and the proceedings in court are for violation of different codes namely IPC etc. Hence, there is no bar in finalising the departmental proceedings.

(b) The official further argues that Sri K.Chandrasekhar, the disciplinary authority has already expressed his views in the court and hence, he cannot finalise the case. As already stated, the SPBs, Kurnool is not competent to impose any major penalty as the official was appointed to the TBOP cadre by DPS. Hence, this point does not at all arise.

(c) The emphasis in departmental enquiries is heavily on facts. The standard of proof required in departmental enquiries differs materially from the standard of proof required in a criminal trial. Departmental proceeding is not a criminal trial and the standard of proof required in a disciplinary inquiry is that of preponderance of probability and not proof beyond reasonable doubt.

The credit worthiness of the PWs-2 & 3 is not disputed and there is no reason to discard their version. No evidence is made available to prove that the PWs-2 & 3 are interested to implicate the charged servant or they are biased against the charged servant. No evidence was also made available while cross examining the PW-2 or 3 that the statements SE-1 and SE-5 were obtained under coercion or threat.

4. On the basis of the foregoing, I hold that all the 3 charges levelled against the said Sri L.Balaiah have been proved conclusively. The acts on the part of the official are grave in nature and requires to be dealt deterrently. I, Ms.K.Sandhya Rani, Director of Postal Services, Hyderabad City Region, holding additional charge of Kurnool Region, therefore, hereby order that the said Sri L.Balaiah be dismissed from service.

for
 (K.SANDHYA RANI)
 Director of Postal Services,
 Hyderabad City Region,
 Addl. charge of Kurnool Region.

To

Sri L.Balaiah,
 PA, Adoni HO.
 (through the SPBs, Kurnool)

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A copy of this Memo. is issued to:

1 to 4. The Supdt. of POs, Kurnool Division, Kurnool-1.
 5 & 6. The Postmaster, Adoni HO.
 7. Inv. Section of RO, Kurnool-5.
 8. Office copy. 5
 9 & 10. Spare.

~~Yours~~
 (H.S.SASTRY)
 Asst. Director (Staff)

~~T. C.
 T. S. Subbarao
 Counsel for the
 accused~~

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Annexure-2

RL 1853

13/12/93

AMZ

12/12/93

DEPARTMENT OF POSTS :: INDIA
O/O The Supdt. of Post Offices, Kurnool Dt., Kurnool
Memo No. INV/F 7-1/93/11 dated at KNL-1 the 29-1-1993.

The undersigned proposes to hold an inquiry
against Sri.L. Balaiyah, SPM, Dhoni LSG Sub Office

under Rule 14 of the Central Civil Services (Classification control and appeal) Rules, 1965. The substance of imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).

2. Sri.L. Balaiyah is directed to submit within 10 days of the receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should therefore, specifically admit or deny each article of charge.

4. Sri.L. Balaiyah is further informed that if he does not submit his written statement of defence on or before the date so specified in para 2 above or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS(CCA) Rules, 1965 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex parte.

5. Attention of Sri.L. Balaiyah is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Sri.L. Balaiyah is aware of such a representation and that it has been made at his instance and action taken against him for violation of Rule 20 of the CCS(Conduct) Rules, 1964.

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6. The receipt of the memorandum may be acknowledged.

Supdt. of Post Offices,
Kurnool Division,
Kurnool-1.

REGD. AD

To

Mr. L. Balaiyah,
Sub Postmaster,
Dhone LSG S.O. (Under suspension)
At Dhone.

COPY TO:-

1. The P.P of the Official.
2. Vigilance Register of the SPOs, Kurnool Division-
Kurnool-1.
3. Disciplinary Case file, Divisional Office, Kurnool.
4. C.R file of the Official.
5. Service Book of the Official with the Postmaster,
Kurnool H.O.
6. Office Copy.
7. a. & b. Spare.

Sd
Supdt. of Post Offices,
Kurnool Division,
Kurnool-1.

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ANNEXURE - I

Statement of articles of charge framed against Sri. L. Balaiah, Sub Postmaster, Dhone LSG S.O (Under suspension).

ARTICLE - I

*S. Balaiah
18/12/92
18/12/91
4/12/91
18/12/91*

That the said Sri. L. Balaiah, while working as Sub Postmaster, Dhone LSG S.O for the period from 13-5-1989 to 13-1-1992 had charged a withdrawal of Rs. 35,000/- in SB A/C No. 191742 on 12-12-1991, while the pass book shows that the transaction had taken place on 18-12-91. The depositor also had stated that he had not sought any withdrawal either on 12-12-1991 or on 18-12-1991. Thus it is alleged that Sri. L. Balaiah, SPM, Dhone had falsified the records of savings bank and thus failed to maintain absolute integrity contravening the provisions of Rule 3(i) (i) of OCS (Conduct) Rules 1964.

ARTICLE - II

*is true and
by hand of
for 10/10
2/12/92
- in ledger*

That the said Sri. L. Balaiah, while working as Sub Postmaster, Dhone for the period from 13-5-1989 to 13-1-1992 had made the withdrawal entry of Rs. 35,000/- in SB Ledger of SB Account No. 191742 without getting the signature of SB P.A attested infringing Rule 29 of Chapter 4 of Hand Book on Postal Saving Bank, which prescribes that the each entry of transaction should be attested by the initials of the SPM is to be noted by the SB P.A and the SPM had to note the balance column only. Thus it is alleged that Sri. L. Balaiah has failed to maintain absolute devotion to duty contravening the provisions of Rule 3(i) (ii) of OCS (Conduct) Rules 1964.

(Contd ... page 2)

ARTICLE - III

~~That the said Sri. L. Balaiyah, while working as SPM, Dhoni during the period from 13-5-1989 to 13-1-1992 had not correctly verified the signature of the depositor of SB A/C No. 191742 in the withdrawal form dated 12-12-1991 for Rs. 53,000/- as the depositor had disowned the signature appearing on the withdrawal form. Thus it is alleged that Sri. L. Balaiyah had failed to maintain absolute devotion to duty contravening Rule 3 (1) (ii) (Conduct) Rules 1964.~~

(A.C. THIRAPATHY
Supdt. of Post Offices,
Kurnool Division,
Kurnool-L.

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ANNEXURE - II

Statement of Imputation of misconduct or mis-behaviour in support of the articles of charge framed against Sri. L. Balaiyah, Sub Postmaster, Dhone LSG S.O (Under Suspension).

ARTICLE - I

A sum of Rs. 33,000/- was shown as withdrawal in SB Account 191742 on 12-12-1991. The Pass Book of SB A/C No. 191742 shows that the withdrawal transaction of Rs. 33,000/- having taken place on 18-12-1991. The manuscript entry in the first column of Pass Book shows the date as 18-12-1991 and the date stamp of implementation 19-12-1991 having been corrected as 18-12-1991. Sri. M. Purushotham, PO 1567 Dhone who is the depositor of the SB A/C No. 191742 had deposed in his statement dated 16-3-1993 before the ASPOs (R) O/o Superintendent Post Offices, Kurnool that he had not sought any withdrawal either on 12-12-1991 or on 18-12-1991. The depositor had also stated that he had not signed any withdrawal form on 18-12-1991 for Rs. 33,000/-. However the depositor has stated that he had received an amount of Rs. 33,000/- from Sri. L. Balaiyah, SPM, Dhone on 18-12-1991. Smt. B. Munichandrali, SB P.A., Dhone had deposed in her statement dated 23-2-1993 that she had not given the amount or withdrawal to the depositor on 12-12-1991, nor the transaction or the withdrawal had taken place in her presence. She had also stated that Sri. L. Balaiyah, SPM had taken the amount sum of Rs. 33,000/- from the treasury and asked her to show it under Smt. Balaiyah's withdrawal. She had also deposed that the withdrawal entry of Rs. 33,000/- in SB Pass Book against the date 18-12-1991 was made by Sri. L. Balaiyah SPM Dhone. Thus Sri. L. Balaiyah had falsified the records of Savings bank by furnishing different dates or withdrawal transaction.

(Contd. on page 4)

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SFA R T I C L E - II

Sri.L.Balaiah, SPM, Dhone had himself made an entry of withdrawal of Rs.33,000/- in the SB Ledger pertaining to SB Account No.191742. As per Rule 29 (4) of Chapter 4 of Hand Book of SB Manual each entry of transaction should be attested by the initials of the Sub Postmaster and the signature of the SB P.A in the column prescribed for the purpose even though the SB P.A Smt.B.Munichandravalli was very much available on that date, the attestation of the SB P.A was not obtained by the SPM and he had himself signed in the column prescribed for the purpose. Smt.B.Munichandravalli had deposed in her statement dated 23-2-1993 given before the ASPOs (R) O/o Supdt. of Post Offices, Kurnool that Sri.L.Balaiah, SPM, Dhone had told her that he had posted the withdrawal entry in the ledger. The SPM had not observed the Rule 29(4) of Chapter 4 of Hand Book on PO SB which clearly prescribes that each transaction should be attested by the SB P.A only. Thus Sri.L.Balaiah had not observed the rules properly in the discharge of his functions as SPM and violated the procedure by not obtaining the attestation of the SB P.A against the transaction. This deliberate act goes to show that Sri.L.Balaiah had brought into account a fictitious transaction.

A R T I C L E - III

The signature appearing on SB 7 dated 12-12-1991 in SB Account No.191742 for Rs.33,000/- as that of the depositor is disowned by the depositor as that of his. This signature available on the SB 7 vastly differs from the signature of the depositor on record. Sri.L.Balaiah SPM, Dhone was expected to thoroughly verify the signature before allowing the withdrawal. But the transaction was allowed and the subsequent enquiries made with the depositor showed that she had not signed any withdrawal.

(Contd ... page 5)

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on 12-12-1991. The Rule clearly provides second verification of the depositor by the SPM to confirm to the specimen signature. The SPM Dhone SaO had not followed the Rule 67(7) of Chapter 9 of Hand Book on PO SB scrupulously with the result that a fictitious transaction had been taken into account.

Date - 10/3/92

(A.C. THIRAPATHY)

Supdt. of Post Offices,

Kurnool Division,

Kurnool-1.

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ANNEXURE - III

List of documents by which the Articles of charge framed against Sri. L. Balaiyah, SPM, phone LSG S.O (Under Suspension) are proposed to be sustained.

S/E 10/96

1. SB Pass Book of A/C No. 191742 of Sri. B. Purushotham, phone. Certified copy verified.
2. SB Ledger of phone LSG S.O Ledger No. 22 in respect of SB A/C No. 191742. (Not needed) Certified copy
3. SB Warrant of payment dated 12-12-1991 for Rs. 55,000/- in respect of SB A/C No. 191742.
4. SB Specimen signature book containing the signature of SB depositor of SB A/C No. 191742.
5. Long Book of phone LSG S.O for the period from 12-6-1991 to 15-6-1992. (Conf. No.)
6. Statement dated 16-2-1993 of Sri. B. Purushotham, SB depositor of SB Account No. 191742.
7. Statement dated 23-2-1993 given by Smt. B. Munichandravali SB P.A., phone LSG S.O before the ASPOs (R), O/o Supdt. of Post Offices, Kurnool.
8. Treasurers Cash Book of phone LSG S.O from 2-11-91 to 3-1-1992. (not fixed)

13/12/93
 (A.C. THIRAPATHY)
 Supdt. of Post Offices,
 Kurnool Division,
 Kurnool-1.

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ANNEXURE - IV

List of witnesses by whom the articles of charge framed against Exi. B. Sahaiah, SPM, Dhone LSG S.O (Under Suspension) are proposed to be sustained.

1. Exi. B. Purushotham, PO 1527,

Phone.

2. Exi. B. N. Jarma, ASPOs (R),
O/o Supdt. of Post Offices, Kurnool

3. Smt. B. Munichandrali, P.A.,
Adoni H.O.

(A.C. THRAPATHY)

Supdt. of Post Offices,
Kurnool Division,
Kurnool-1.

T.C.
B. Sahaiah
Comptd for file
officer

Annexure 3

Inquiry report under Rule 14 of CCS (CCA) Rules, 1965 framed against Sri. L. Balaiyah, formerly SPM Dhoni LSG S.O and now P.A. Adoni HO submitted by Sri. Syed Abdule, AsPDS, Kurnool West Subd, Kurnool, and Inquiring authority.



Sri. L. Balaiyah, formerly SPM Dhoni LSG S.O and presently working as P.A. Adoni HO, was issued charge sheet under Rule 14 of CCS (CCA) Rules, 1965, vide SPO, Kurnool Dm. memo no INY/F7-1/93/11 dated 13.12.93. The charge sheet was delivered to Sri. L. Balaiyah, the charged official on 16.12.93 and he refused to take effect of it and left on record. Sri. L. Balaiyah, the charged official in his reply to the charge sheet has denied all the charges levelled against him & his representation dated 2.1.94.

2. Sri. Syed Abdule, AsPDS Kurnool West Subd, was appointed as Inquiring officer replacing Sri. M. Sreenivasulu, AsPDS (R) of/o Superintendent of Post Office, Kurnool Dm. vide SPO, Kurnool Memo no INY/F7-1/93/11 dated 5.7.95. Sri. R. Venkatakrishna, complaints Inspector (Postal) of/o Superintendent of Post Office, Kurnool Dm. was appointed as Presenting Officer v/o the SPO, Kurnool Dm. memo no INY/F7-1/93/11 dated 14.12.94. later on he was replaced by Sri. C. V. Subba Rao, SD (P), Kurnool East Subd v/o the SPO, Kurnool memo no. INY/F7-1/93/11 dated 6.10.95.

3. The sittings of the Inquiry held on 23.1.95, 12.3.95, 25.8.95, 21.9.95, 13.3.96, 10.4.96, 25.6.96, 8.7.96, 12.8.96, 13.8.96, 14.8.96 and 30.8.96.

4. The article of the charge framed against Sri. L. Balaiyah, formerly SPM, Dhoni LSG S.O and now P.A. Adoni HO are:

Article I

That Sri. Syed Sri. L. Balaiyah, while working as Sub. Postmaster, Dhoni LSG S.O. for the period from 13.5.1989 to 13.1.1992 had charged a withdrawal of Rs 33,000/- in SB A/c no 191742 on 12.12.1991, while the pass book shows that the transaction had taken place on 18.12.91. The depositor also had stated that he had not sought any withdrawal either on 12.12.1991 or on 18.12.1991. Thus it is alleged that Sri. L. Balaiyah SPM, Dhoni has falsified the records of Savings bank and thus failed to maintain an obsolete integrity concerning the provisions of Rule 3(i)(i) of CCS (Conciled) Rules, 1964.

contd-2.

Article 11

That the said Sri L. Balasub had himself been
made Sub-Postmaster, Dhoni for the period from 13.5.1989 to 13.1.1992
had made the withdrawal entry of Rs 33,000/- in S.B. ledger
of S.B. account No 191742 without getting the signature of
S.B.P.A. which is infringing Rule 29 of chapter 4 of Hari
Book on Postal Savings Bank, which prescribes that each
entry of transaction should be attested by the initials of
the S.B.P.A. to be noted by the S.B.P.A and the signature of
S.B.P.A and the S.P.O. had to note the balance column of
only. Thus it is alleged that Sri L. Balasub has failed
to maintain absolute devotion to duty concerning
the provisions of Rule 29 (ii) of CCS (conduct) Rules 1964.

Article 11

That the said Sri L. Balasub, while working as
S.M. Dhoni during the period from 13.5.1989 to 13.1.1992
had not correctly verified the signature of the
depositor of S.B. Ac. No 191742 in the withdrawal form
dated 12.12.1991 for Rs 33,000/- as the depositor had
disowned the signature appearing on the withdrawal
form. Thus it is alleged that Sri L. Balasub had
failed to maintain absolute devotion to duty con-
cerning Rule 3(i) (ii) of CCS (conduct) Rules 1964.

Article 11

That the said Sri L. Balasub had on
5.1.96 The statement of interpretation of misconduct and
or misbehaviour on behalf of the articles of charge
in view of the fact that he has committed
a serious offence as per Article 11 of the CCS (conduct) Rules 1964
in the course of his duty as Sub-Postmaster, Dhoni
on the date of 12.12.1991. The amount of Rs 33,000/- shown as withdrawal
in S.B. ac. No 191742 on 12.12.1991. But the entry
in S.P.A. pass book shows the date of withdrawal
as 18.12.1991, and the date stamp on the
withdrawal is 18.12.1991, and the date stamp on the
mention of the date 19.12.1991 was suppressed and done
on the date 18.12.1991. The depositor of S.B. ac. No 191742
dated 16.2.1993 before
whose deposit in his statement dated 16.2.1993 before
the S.P.O. (R) of Supt. of Post. Office, Kurnool that
he has not sought for withdrawal of Rs 33,000/-
he received either on 12.12.1991 or on 18.12.1991, but he received
the said amount. Smt. B. Meniachandu alias
S.B.P.A. Dhoni depositor before on her statement
dated 23.2.1993 that Sri L. Balasub, S.P.O. had
stolen the amount of Rs 33,000/- from the two
entry and asked her to show under S.B. withdrawal
and the entry in the pass book against the date 18.12.91
was made by such Balasub. Thus Sri L. Balasub
has failed to falsified the records of Savings
Bank by furnishing different date of with-
drawal transaction.

Article II

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Sri. L. Balasaih, SPM Dhoni had himself post
made entry of withdrawal of Rs 33,000/- in SB ledger
pertaining to SB account no. 191742 even though the S.P.M.A
Smt. B. Ramachandranvali was very much present - in the
office on the said date instead of getting the entry made by
the P.A with signature of P.A. Smt. B. Ramachandranvali performed
before ASPOS (LR) of Seppat of Post Office, Kurnool on 23.2.1993.
That - the SPM Dhoni had told her that he had post the
withdrawal entry on the ledger. Thus SPM had post-observed
rule 29(4) of chapter 4 of Hand Book on PO & SB. Thus Sri.
L. Balasaih had brought it on his account a fictitious
transaction.

Article III

The signature appearing on SB-7 dated 12.12.1991
in S.B. no 191742 for Rs 33,000/- was disowned by the
depositor as that of his. The signature on the ledger on SB-7
vastly differs from the signature of the depositor on record.
The enquiry is made with the depositor revealed that he
had not signed any withdrawal form on 12.12.1991. The
rule clearly provides for second verifications by the P.M.
Thus Sri. L. Balasaih had not followed the Rule 67(7) of
chapter 9 of Hand Book on PO & SB, consequently with
the result a fictitious transaction had been taken on
his account.

6. During the sitting of the Inquiry held on
23.1.96 Sri. L. Balasaih, the charged official has pleaded
not guilty for all the charges levelled against him,
and nominated Sri. P. Ramudu, P.I.O. Postmaster
Narsapuram to assist him in the case. The AGS nominated
by the C.O. was permitted and the documents listed
under Annexure III of the charge sheet - produced by the
C.O. with the assistance of his AGS on 21.9.95, 13.3.96,
and 10.4.96. The C.O. has asked for the statement of
Sri. C. Ramangayulu, the Hm. Treasurer, Dhoni 156.
S.O. as additional document and proposed the
said official as his defence witness. The additional
document was not produced by P.O. as the same was
not available with the disciplinary authority.

7(i). In support of the articles of charge framed
against Sri. L. Balasaih, formerly SPM, Dhoni 156.
S.B. and present P.A. Adoni H.O., has produced the
P.O. has produced Sri. B. Purushotham, the Hm. P.C.
156 of Dhoni P.S. and present H.C. of Adoni. The Police
Station as P.W. 1. on 13.8.96. The P.W. 1. on his depo-
sition stated that - on 16.2.93, the date on which his
statement was recorded, he was working as police
constable at Bettamcherla. The statement - stated
16.2.93 was not written by him, and the contents
were not read out to him. He was asked to affine

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his signature, which he did. He stated that the entire contents of the statement are false. At this stage the P.O. declared the PW-1 as hostile and went to cross examine him. The PW-1 was asked to state the facts of the case first. The PW-1 was asked to state the facts of the case first and continue. Examination including by the P.O. to this and continue. Examination including by the P.O. to this and continue. The C.O. expected and requested for re-reading the statement of PW-1 a fresh. It was agreed and the PW-1 was asked to state the facts. The PW-1 stated that the contents of the statement dated 16.12.93, in which were narrated and explained in various places were not true. Regarding the withdrawal entry of Rs 33,000/- in his SB account no. 191742. He stated that the said amount was received on 26.12.93, but the date relating to the withdrawal was remembered by him. It was shown in the SB-7 (16.12.93) and the specimen signature of about 191742. He stated that the signatures are of his only. In the examination, in chief by the P.O. the PW-1 stated that he received the amount at the cash counter from the person present there but he does not remember who the person present at the counter was a male or female. The person present at the counter was a male or female. The person and he does not remember as to who gave him the amount and he does not remember as to who gave him the amount and the specimen signatures (S.E.X-2 on SB-7 form and the specimen signature (S.E.X-1 and S.E.X-4) are differing. Mr. B. Purushotham (P.W-1) stated that while writing speedily it was happened and he cannot remember that now. Regarding the statement of withdrawal of Rs 33,000/- he stated that he does not remember the date and time of withdrawal of the amount. In the cross examination by the C.O. the PW-1 stated for the question as to what for he has given the statement, two persons obtained his statement regarding Rs 33,000/- which he was deposed on the Post Office. The statement was not made over to him, but he was asked to sign, hence he signed. Further he stated that he informed the two persons that he will give the statement, Post Telegraph, but they have not listened him.

(ii) The P.O. produced Smt. S. N. Sarma, the Head of the S.P.O.C. (R) of the Subdtl. of Post Office, Kurru of D. P. O. 2 present Subdtl. of Post Office was properly deposed on 13.8.96. In his deposition the PW-2 stated that the statement dated 16.12.93 of Mr. B. Purushotham (S.E.X-1) depositor of SB account no. 191742 was recorded by him and he has recorded the statement in the statement dated 23.2.93 of Mr. B. Purushotham (S.E.X-5) P. A. phone LSC-50 was recorded and valid. The PW-2 stated that the statement of Mr. B. Purushotham written that the statement of Mr. B. Purushotham written that he was a depositor and both the statements recorded by him as depositor and both the statements recorded as depositor by the deponents. In the cross examination he stated that he was a depositor and both the statements recorded by him as depositor and both the statements recorded as depositor by the deponents.

Exhibit 5

Examination by C. O. Dr. S. N. Sarmo (PW-2) stated on
the day of recording the statement, Dr. B. P. Bhattacharya
stated that though he has not signed himself with drawn
form, for Rs 33,000/- on 12.12.91, he admitted to have
received Rs 33,000/- on 18.12.91 and admitted on some
other savings schemes and there were no more very late
to him Rs 165.513 after 0191743. He further admitted
to have signed at this destination that he does not able to
recalled whether the depositor of the account to give his
signature in the form he had written.

18. Sir G. B. R. K. his Defence statement dated 30.8.96. S. L. Balachandran
formerly a post office H.S.C. 30 and present P.A. Adorn. He stated
that P.A. Article I of Et was alleged as falsified the accounts
in respect of S. C. Acc. no 191742. Since there was no correction
in the date of transaction between Pass Book and Cash
of payment that was in the P.B. He dated 19-12-91 was date
dated 18-12-91. S. L. Balachandran further stated that the cash
date on the Pass Book is 12-12-91 but somebody wrote
the date before in the date is unclear to him. He further
stated that the self force of S. C. Acc. no 191742 totally denied
before the self force. S. L. Balachandran further stated that he was
before the magistrate officer and the allegation of false date
in regard to Article II S. L. Balachandran charged off and
stated that the allegation was that he has made entry
stated that he allegation was that he has made entry
since the ledger is showing his initials in place from date
1. for 8. However the P.A. was very much present on the spot
The P.A. stated that the P.A. was not present on the spot
at the time of transaction, hence he posted the entry. S. L. Balachandran
stated that the ledger and self force had no date
The P.B. and self force the ledger and self force had no date
The P.A. further stated that when ever P.A. is present

10. The Presenting Officer in his brief written brief dated 12.9.96, stated that Mr. B. Purushotham S/o S. S. I. has denied the contents of the statement dated 16.2.93, since he was declared as hostile for the fresh deposition given before the Jangiray Officer that he received Rs 33,000/- but not remembered the date of receipt, that he could not remember the S.O. withdrawal form for Rs 33,000/- though, since he deposition and not able to tell the date by about the date of withdrawal either by seeing the entry in the ledger.

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in his Pass Book 'or' seeing the withdrawal form dated 12.12.91. The P.O. stated that the SW-1 deposed that he signed the SB withdrawal form dated 12.12.91 & of signature on the SB withdrawal form dated 12.12.91 & of him only, but he replied to a question that the com not sign now as & is available on the withdrawal form further the P.O. stated that none of the signatures obtained in the deposition is tallying with the signature used on the withdrawal form dated 12.12.91 or even recorded on the withdrawal form dated 12.12.91. The P.O. said that it is clear that the SW-1 did not actually took withdrawal on 12.12.91 but received the amount of Rs 33,000/- later on and the SW-2 said S. I. S. or S. A. deposed that he recorded the statements of SW-1 and deposed that he deposed by him only. The he told SW-3 just see they deposed by him only. The he told that the Article I of the charge was proved with regard to Article II the P.O. stated that Sri L. Balachandran had made withdrawal entry of Rs 33,000/- from his SB ledger (S. G. 6) of SBI A/c NO 191742 with out getting it attestation of S. P. O. against the transaction. Regarding ledger II & the Article II of the charge proved. Regarding Article III of the charge the P.O. stated that Sri L. Balachandran has not correctly verified the withdrawal form of a/c NO 191742 for Rs 33,000/- dated 12.12.91. The signature of the depositor Sri B. Purushothaman on the SB-7 form is not at all tallying with the signature on the specimen signatures book or with the signatures obtained in this deposition on 13.8.96. This the P.O. stated that the signature on the SB-7 form was not verified by Sri L. Balachandran hence the charge P.O. held the charge as proved.

cont'd - 8

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counter P.A. left the counter for a short gap and while the transaction was in process the P.A. returned and attended the rest of the work. The C.O. stated that since he has posted the entry in the pass book, one day well as in the ledger he has affixed his signature. He further stated that there is no bar in respect that the Head of the Office should not attend to the work of counter P.A. since over the depository (SW-1) has submitted the transaction and declared that he has received the amount of withdrawal of Rs 33,000/- correctly. Hence there is no prohibition on the Head of the Office to attend electrical work, hence the article of charge is proved. He further stated that there is a provision in SB 3 which states that the cashier of the post should not be attended by P.A., but the provision in the SPB 7 for attending electrical work. With regard to Article 11 the C.O. stated that the P.O. has stated that the C.O. had not verified the signature of the depository (SW-1) even though there is a slight difference in between S.P. 3 and S.P. 7. The C.O. further stated that the P.O. himself admitted that there is a difference of the signature of SW-1, so much so the very presence of the signatory officer and presiding officer, thus, a slight difference is common. The C.O. further stated that there is a provision in D.G.C (Post) letter no. 30-9/83 S.B dated 23.1.86 "If the difference is negligible and the post master does not doubt the genuineness of the payee he should order the payment of the amount to the depositor". The depositor of Rs 33,000/- (191742-86-3B) Purushotham is a constable and well known to the staff of counter P.O. including himself. The C.O. further stated he had no doubt about the genuineness of the signature even though negligible difference was there, he allowed about the transaction and ordered for payment and the depository admitted to have received the payment from the counter. Hence the C.O. stated that the conclusion of the P.O. in his brief, is not correct.

Findings

12: The main allegation in the Article 7 of the charge is that Sri L. Balachand has falsified the records of savings bank by furnishing different dates of withdrawal transaction on behalf of disciplinary authority. The Treasurer's cash book (S.E. 8) was produced. It shows two entries of Rs 30,000/- each on 12.12.91. The Xerox copy of Pass Book no. 191742 (S.E. 30) was produced, it shows the date noted in manuscript as 12.12.91 and the date stamp impression bears corrected date and appearing as 18.12.91. Sri. S. Purushotham (SW-1), Sri. S. M. Saini (SW-2) and Smt. B. Purushotham (SW-3) was produced in support of the charges from

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13. The allegation in Article II of the charge sheet is that Sri. L. Balakrishnan has brought into account a fictitious transaction and violated Rule 29(4) of chapter 4 of Hand Book on P.O. SBA manual. In support of this article of charge it was mentioned that it was mentioned that Sri. L. Balakrishnan has himself made an entry of withdrawal of Rs.33,000/- in the S.B ledger pertaining to S.B account 141742 of Shreekrishna even though the S.B.A was present and the attestations of S.B.A. were not obtained on the ledger since he has himself signed on the columns provided. During the interrogation it was not known as to who made the entry in the ledger.

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Sr. L. Balakrishna admitted to have made the entry on the ledger and the Pass Book as the SBPA was not present at the counter when the depositor attended the counter. The P.A attended later and on instruction given from SPM, the P.A obtained cash and handed over to the SPM. The SPM stated to have counted the cash and given to the P.A and the depositor himself accepted to have received the amount from the counter. The amount of payment (SEX-3) was spliced by the SPM on the P.A and the long 6,000 rupee was made by the P.A. The P.A has performed part of the transaction and the SPM has also done partly in his behalf. When each of the SPM said P.A done partially, it indicates P.A was between when the depositor attended the counter. After the depositor has accepted to have received the payment from the counter only, in view of the above it cannot be said it's a ~~personal~~ ~~private~~ transaction. Sr. L. Balakrishna, the P.O has not obtained the signature of the P.O on the ledger when the SBPA attended, but regularly one is called on the ledger provided for the signature of P.O, which he agreed all during the inquiry. Not by reason of the Article II of the charge regarding bringing cash account from other transactions not proved and the making entry on the ledger and maintaining on the place of P.A proved.

Mr. For Article III of the charge sheet, it was alleged that the signature on SB-7 of account 191742 dated 12.12.91 for Rs 33,000/- has discrepancy as that of his by the depositor and the signature on the said SB-7 and that on record vastly differs. It is true that the signature on SB-7 dated 12.12.91 differs with the signature in specimen signature book (SEX-2 and SEX-3 respectively). This Article of charge levelled on the basis of the statement recorded on 16.2.93 (SEX-6), which was disowned by the depositor during the Inquiry on the plea that it was not written by him, the contents of the statement dated 16.2.93 not read over to him and on merely informing that the said statement was regarding the withdrawal of Rs 33,000/- made by him, he stated to have signed the statement. Further the depositor has accepted the signature on SB-7 (SEX-2) as that of his own and he has accepted to have received the payment from the counter during the Inquiry. The SPM is competent to allow the withdrawal of these 900/- difference as the signature of the depositor is known to the SPM. For this cause the depositor a Police constable is will to give 10,000/- to the SPM and P.O staff and the depositor has accepted the signature on SB-7 (SEX-2) as that of his own and also accepted to have received the amount from the counter though there is a difference on the signature the Article III of the charge not proved as it is not registered.

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a fictitious transaction.

15. On the basis of documentary and oral evidence adduced for the case before me during the inquiry and in view of the reasons given above, I hold that Article I and III are not proved and Article II partly proved and partly not proved against Smt. L. Balaiyah, formerly SPM, DPO, LSC, so and present P.A. ~~12000/-~~ 40.

Kurnool, 3
27.1.1997

S. M.
(SYED ABDULLA)

Inquiry Officer
Post Office
Asst. Supdt. of Post Office
Kurnool West Sub Division
KURNOOL-E19001

T.C
Banda Chellam

Temporary Assistant
Post Office

Temporary Assistant
Post Office

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Inquiry report under rule 14 of CCSC (CCA) Rules 1965 framed against Sri L. Balaiah formerly SPM Dhone L.S.G.SO and now P.A. Adoni H.O. submitted by Sri Syed Abdulla, ASPoS, Kurnool West Sub-Division, Kurnool and Inquiry authority.

Sri L. Balaiah, formerly SPM Dhone LSGSO and presently working as P.A. Adoni H.O. was issued charge sheet under rule 14 of CCS (CCA) Rules 1965, vide SPOS, Kurnool in Memo No: INV/F7-1/93/11 dt. 13.12.93. The charge sheet was delivered to Sri L. Balaiah, the charged official on 16.12.93 and the receipt to that effect obtained and kept on record. Sri L. Balaiah, the charged official in his reply to the charge sheet has denied all the charges levelled against him vide his representation dated 2.1.94.

2. Sri Syed Abdulla, ASPoS Kurnool west Sub Division q/ was appointed as Inquiring Officer replacing Sri M. Sreenivasulu, ASPoS (R) o/o the Suptdt. of Post Offices Kurnool Division, vide SPOS, Kurnool memo No: INV/F7-1/93/11 dated 5.7.95. Sri R. Venkataramudu, complaints inspector (Postal) o/o Superintendent of Post Offices, Kurnool Division were appointed as presenting officer vide SPOS, Kurnool Division Memo No: INV/F7-1/93/11 dt. 14.12.94 later on he was replaced by Sri K.V. Subba Rao, S.D.I(P) Kurnool East Sub Divisional vide SPOS Kurnool memo No: INV/F7-1/93/11 dated 6.10.95.

3. The sittings of the Inquiry held on 23.1.95, 13.3.95, 25.8.95, 21.9.95, 13.3.96, 10.4.96, 25.6.96, 8.7.96 12.8.96, 13.8.96, 14.8.96 and 30.8.96.

4. The articles of the charge framed against Sri L. Balaiah, formerly SPM Dhone LSGSO and now P.A. Adoni H.O. are:

Article I

That the said Sri L.Balaiah, while working as Sub Postmaster, Dhone LSGSO for the period from 13.5.1989 to 13.1.1992 had charged a withdrawal of Rs. 33,000/- in S.B.account No: 191742 on 12.12.1991, while the pass book shows that the transaction had taken place on 18.12.91. The depositor also had stated that he had not sought any withdrawal either on 12.12.1991 or on 18.12.1991. Thus it is alleged that Sri L.Balaiah, SPM Dhone has falsified the records of savings bank and thus failed to maintain absolute integrity contravening. The provisions of rule 3(i)(i) of CCS (Conduct) Rules 1964..

Article II

That the said Sri L.Balaiah, while working as Sub Postmaster, Dhone for the period from 13.5.1989 to 13.1.1992 had made the withdrawal entry of Rs. 33,000/- in SB ledger of S.B.account No: 191742 without getting the signature of SPPA attested infringing Rule 29 of chapter 4 of Hand Book on Postal Savings Bank, which prescribes that each entry of transaction should be attested by the initials of the SPM is to be noted by the SPPA and the signature of SPPA and the SPM had to note the balance column of only. Thus it is alleged that Sri L.Balaiah has failed to maintain absolute devotion to duty contravening the provisions of Rule 3(i)(ii) of CCS (Conduct) Rules 1964.

Article III

That the said Sri L.Balaiah, while working as SPM Dhone during the period from 13.5.1989 to 13.1.1992 had not correctly verified the signature of the depositor of S.B.A/c No: 191742 in the withdrawal form dated 12.12.1991 for Rs. 33,000/- as the depositor had disowned the signature appearing on the withdrawal form. Thus it is alleged that Sri L.Balaiah had failed to maintain absolute denotion to duty contravening rule 3(i)(ii) of CCS (Conduct) Rules 1964.

5. The statement of ~~Imprec~~ Imputation of misconduct or misbehaviour in support of the articles of charge in brief are

Article I

A sum of Rs. 33,000/- shown as withdrawal in S.B.A/c No: 191742 on 12.12.1991. But the manuscript entry in the pass book shows the date of withdrawals as 18.12.1991, and the date stamp impression of the date 19.12.91 was impressed and selected as 18.12.1991. The depositor of S.B. A/c.No.191742 has deposed in his statement dated 16.2.1993 before the ASPOs(R) O/o. Superintendent of Post Offices, Kurnool that has not sought for withdrawals of Rs.33,000/- either on 12.12.1991 or on 18.12.1991, but the received the said amount Smt.B.Munichandravali SBPA, Dhone Dhone deposed in her statement dated 23.2.1993 that Sri L.Balaiah, SPM had taken the amount from of Rs.33,000/- from the treasury and asked has to show under SB withdrawal and the entry in the pass book against the date 18.12.1991 as made by Sri L.Balaiah.

Thus Sri L.Balaiah has falsified the records of Savings Bank by furnishing different dates of withdrawal transaction.

Article - II

Sri L.Balaiah, SPM Dhone had himself made entry of withdrawal of Rs.33,000/- in SB ledger Smt. B.Munichandravati was very much present in the office on the said date instead of getting the entry made by the PA with signature of P.A.

Smt. B.Munichandravati sejosed before ASPOs(R) o/o. Superintendent of Post Offices, Kurnool on 23.2.1993 that the SPM Dhone had told her that he had posted the withdrawal entry in the ledger. Thus SPM had not obse ved Rule 29(4) of chapter 4 of hand book on POSB. Thus Smt.L.Balaiah had brought in to account a fictitious transaction.

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Article - III

The signature appearing on SB.7 dated 12.12.1991 in S.B. A/c.No.191742 for Rs.33,000/- was dishonored by the depositor as that of his the signature orditable on S.B.I. vastly differences from the signature of the depositor on record. The enquiries made with the depositor revealed that he had not signed any withdrawal form on 12.12.91. The rule clearly provides for record verification by the SPM. Thus Sri L.Balaiah had not followed the Rule 67(7) of chapter 9 of hand book on PO/ SB scrupulously with the result a fictitious transaction had been taken in the account.

6. During the sitting of the inquiry held on 23.1.96 Sri L.Balaiah, the charged official has pleaded not guilty for all the charges levelled against him, and nominated Sri P.Ramudu, Retd. Postmaster, Nandyal to assist him in the case. The AGS nominated by the C.O. was permitted and the documents lister under Annexure III of the charge sheet perused by the C.O. with the assistance of his AGS on 21.9.95, 13.3.96, and 10.4.96. The C.O. has asked for the statement of Sri C.Ramanjaneyulu, the then treasurer, Dhone LSG. SO as additional document and proposed the said official as his defence witness. The additional document was not produced by P.O. as the same was not available with the disciplinary authority.

7. (i). In support of the articles of charge framed against Sri L.Balaiah, formerly SPM, Dhone LSG SO and present P.A. Adoni HO, the PO has produced Sri B.Purushotham, the then PC 1567 of Dhone P.S. and present HC of Adoni traffic police station as PW 1 on 13.8.96. The PW.1 in his deposition

xxxxxx stated that on 16.2.93, the date on which his statement was recorded, he was working as police constable at Bethamcherla. The statement dated 16.2.93 was not written by him, and the contents were not readout to him. He was asked to affix his signature, which he did. He stated that the entire contents of the statement are false. At this stage the PO declared the PW.1 as hostile and want to cross examine him. The PW.1 was asked to state the facts of the case first and continue examination in chief by the P.O. For this the C.O. objected and requested for recording the statement of PW.1 of fresh. It was agreed and the P.W.1 was asked to state the facts. The PW.1 stated that the contents of the statement dated 16.2.93 which were read and explained in vernacular were not true. Regarding the withdrawal entry of Rs.33,000/- in his S.B. A/c.No.191742. He stated that the said amount was received by him, but the date releasing to the withdrawal was remembered by him. He was shown the S.B.I. dated 12.12.91 and the specimen signature of A/c.No.191742. He stated both the signatures are of his only. In the examination-in-chief by the P.O. the PW.1 stated that he received the amount at the cash counter from the person present there, but the doesnot remember whether the person present at the counter was a male or female person and he does not remember as to who filled the up the SB.7 form. When pointed out that the signature on SB.7 form and the specimen signatures books (Sex.2 and S.Ex-4) are differing. Sri B.Purushotham (PW.1) stated that while writing spreding it was happened and he cannot sign like that now. Regarding the date of withdrawal of Rs.33,000/- he stated that he does not remember the dates and timings but he received the amount. In the cross examination by the C.O. the P.W.1 stated for the question as to what for he has given the statement, two persons obtained his statement regarding Rs.33,000/- which he was received in the post office. The statement was not reach over in

to him, but he was asked to sign, hence resigned. Further he stated that he informed the two persons that he will give the statement in Telugu, but they have not listened him.

ii) The P.O. produced Sri S.N. Sarma the then ASPOs(R) o/o. The Superintendent of Post Offices, Kurnool and present Superintendent of Post Offices, Wanaparthy Division as PW.2 on 13.8.96. In his deposition the PW.2 stated that the statement dated 16.12.93 of Sri B.Purushotham (S.Ex-1) depositor of S.B. Account No.191742 was identified by him and he has recorded the statement. The statement dated 23.2.93 of Smt.B.Munichandrapati (SEX-5) P.A. Dhone LSG SO was identified and the same stated recorded by him. The PW.2 stated that the statement of Sri B.Purushotham written by him as deposes and both the statements recorded as deposed by the deponents. In the cross examination by C.O. Sri S.N. Sarma (PW.2) stated on the day of recording the statement Sri B.Purushotham stated that though he was not signed the SB withdrawal form for Rs.33,000/- on 12.12.91, he admitted to have received Rs.33,000/- on 18.12.91 and invested in some other savings schemes and there was no monetary loss to him in his SB A/c.No.191742 therfore he might have denies and at this distant date he does not able to recollect whether the deposition volunteered to give his statement in his own hand writing.

iii) The P.O. produced Smt.B.Munichandrapati P.A. Adoni HO as PW.3 on 14.8.96. In the examination-in-chief the PW-3 deposed that she is working as P.A. Adoni HO from June 93 and she worked as P.A. Dhone LSG SO from May 89 to to May 93, she stated that she has given a statement on 23.2.93 to ASPOs (R) o/o. Superintendent of Post Offices, Kurnool (SEX.5) and whatever given in the said statement is correct. In the cross examination Mr.B.Munichandrapati stated that she was taking advance at the opening

of the counter. She further stated that she has taken advance for allowing withdrawal of Rs.33,000/- in SB A/c.No.191742 on 12.12.91 and given the amount to Sri L.Balaiah, SPM Dhone LSG SO and she further stated that the depositor of S.B. A/c.No. 191742 was not presented and she has not given the amount to the depositor, but given to Sri L.Balaiah and the impression of date stamp of date 18.12.91 not made by Sri L.Balaiah in her presence the entry of withdrawal of Rs.33,000/- in the pass book not made in her presence and only the will withdrawal form presented at the counter without P.B. on 12.12.91. She further stated that on the basis of hand writing in the pass book and in the ledger she stated that the entires were made by Sri L.Balaiah.

8. In his defence statement dated 30.8.96 Sri L.Balaiah formerly SPM Dhone LSG SO and present PA Adoni HO stated that in Article I it was alleged as falsified the accounts in respect of S.B. A/c.No.191742, since there is corrections in the date of transaction between pass book and correct of payment that is in the PB the date of 19.12.91 was corrected as 18.12.91 Sri L.Balaiah further stated that the actual date in the pass book is 1.12.91 but somebody corrected the dates later on to the dates suited to them. He further stated that the depositor of SB A/c.No.191742 totally denied the statement dated 16.2.93 and declared as false before the enquiry officer and the allegation is baseless. With regard to Article II Sri L.Balaiah, the charged official stated that the allegation was that he has made entry in the ledger affixing his initials in place provided for P.A. even the P.A. was very much present in the officer. The C.O. stated that the P.A. was not present in the office at the time of transaction, hence reposted the entry in the PB as well as in the ledger and affixed his initials the C.O. further stated that

Contd...8

whenever P.A. of any counter was absent he use to attend to the public to avoid complaints, because it was his duty to avoid complaints. On 12.12.91, Sri L.Balaiah stated that the P.A. S t. B.Munichandraravati was absent, he attended the transaction and made entries in PB and the ledger, in the mean time, the P.A. attended the office and she was stated directed by him to obtain the cash from the treasurer, which she has done, she attended the counter and passed the warrant of payment. In the mean time Sri L.Balaiah stated that he has counted the cash for second check and handed over to the P.A. for payment to the depositor. He further stated that in her statement she never stated that she had not made the transaction and when the P.A. passed the S.B.7 it can not be said that the P.A. has not made the transaction and the depositor of S.B A/c.No.191742 Sri B. Purushotham stated to have received cash of Rs.33,000/- from the counter P.A. only. The CO stated that with good faith to assist the P.A. he attended to the transaction. With regard to Article III of the charge Sri L.Balaiah, the C.O. stated that it was alleged that he has not properly verified the signature of depositor of S.B. A/c.No.191742 for withdrawal of Rs.33,000/- on 12.12.91 and the signatures of the depositor restly differs on S.B.7 with S.B.3 card or in indecree register. It was stated that the depositor has disowned this signature on S.B.7. The C.O. further stated that the signature of Sri B.Purushotham differs from one to another on statement dated 16.2.93 and on deposition before inquiry officer on 13896 from one page to another page. Sri L.Balaiah further stated that a slight difference in common and it is his responsibility as Head of the office to allow the transaction he further stated that when the warrant of payment was passed by SPM it indicates that he identify of the depositor confirmed and there is a provision in SB rules and the depositor of S.B. A/c.No.191742 has accepted the signatures on S.B.7 dated 12.12.91 as that of his only. Hence the allegation is falseone.

9. In support of his defence Sri L. Balaiah, the C.O. has produced as his defence witness Sri C. Ramanjaneyulu, P.A. Kurnool HO who deposed that on 12.12.1991 he worked as Treasurer of Dhone LSG SO and given as advance of Rs. 30,000/- each under two items in TCB (SEX-8) to the SBPA on 12.12.91.

10. The Presenting Officer in his brief written brief dated 12.9.1996 stated that Sri B. Purushotham SW-1 has denied the contents of the statement dated 16.2.1993 hence he was declared as hostile. In the fresh deposition given before the Inquiry Officer that he received Rs. 33,000/- but not ~~the~~ recommended the date of receipt, that he could not recognise the SB withdrawal ~~form~~ form for Rs. 33,000/- throughout the deposition and not able to tell definitely about the date of withdrawal either by seeing the entry in his pass book or seeing the withdrawal form dated 12.12.1991. The P.O. stated that the S.W.1 deposed that the signature on the SB withdrawal form dated 12.12.1991 is of him only, but he replied to a question that he cannot sign now as is available on the withdrawal form further the P.O. stated that none of the signature obtained in the deposition is tallying with the signature on the withdrawal form dated 12.12.1991, or even narrated. The P.O. stated that it is clear that the S.W.1 did not actually took withdrawal on 12.12.1991, but received the amount of Rs. 33,000/- later on and the S.W.2 Sri S.N. Sarma deposed that he recorded the statements of S.W.1 and S.W.3 just as they deposed by them only. ~~That we~~ That we filed that the Article I of the charge as proved with regard to Article II. The P.O. stated that Sri L. Balaiah, SPM had made withdrawal entry of Rs. 33,000/- in the SB ledger (SEX-6) of SB A/c. No: 191742 without getting the attestation

of SBPA against the transaction in the B Ledger thus the Article II of the charge proved. Regarding Article III of the charge the P.O. stated that Sri L. Balaiah has not correctly verified the withdrawal form of A/c.No: 191742 for Rs. 33,000/- dated 12.12.1991. The signature of the depositor Sri B. Purushotham on SB-7 form is not at all tallying with the signature in the specimen signatures book or with the signatures obtained in his deposition on 13.8.96. This the P.O. stated that the signature on SB 7 form was not verified by Sri L. Balaiah hence the P.O. held the charge as proved.

11. In his written brief Sri L. Balaiah the charged official stated that the P.O. has proved Article I of charge because S.W.1 Sri B. Purushotham not able to confirm the date of withdrawal and expressed his inability to sign as signed on warrant of payment on 12.12.1991 further the P.O. depended on the deposition of S.W.2 and S.W.3. It was stated that the xerox copies of documents presented for identification, which were not clear and clean and the S.W.1 denied the statement as false one. Sri S.N. Sarma, S.W.2 deposed that he is unable to recollect at this stage distant date to confirm the deposition of S.W.1. From this it appears the Presenting Officer has presumed that the Article of Charge proved only on the deposition of S.W.1 which was denied before Inquiry Officer. The written brief should be based only on the evidence adduced during the course of Inquiry ~~affixxx~~ only. Presumption cannot constitute basis of guilty. Regarding Article II of the charge the C.O. stated that he failed to observe the provisions of rules on the subject. He stated to have mentioned in different statements the circumstances under which the transaction was done. He stated to have

attended to the transaction partly because the counter P.A left the counter for a short gap and while the transaction was in process the P.A. returned and attended the rest of the work. The C.O. Stated that since he has posted the entry in the pass book and as well as in the ledger he has affixed his initials. He further stated that there is no bar in rules that the Head of the office should not attend to the work of counter P.A. moreover the depositor (S.W.1) has admitted the transaction and declared that he has received the amount of withdrawal of Rs. 33,000/- correctly. Hence there is no prohibition on the Head of the Office to attend clerical work. Hence the Article of the charge not proved. He further stated that there is a provision in SB Rules that the duties of the SPM should not be attended by P.A., but no provision on the SPM for attending clerical work. With regard to Article III the C.O. stated that the P.O. has stated that the C.O. has not verified the signature of the depositor (S.W.1) even though there is a vast difference in between S.B.3 card and S.B.7 The C.O. further stated that the P.O. himself admitted that there is a difference of the signature of S.W.1 signed in the very presence of Inquiry Officer and Presenting Officer, thus a slight difference is common. The C.O. further stated that there is a provision in D.G. (Posts) Letter No: 30-9/83 SB dated 23.1.1986 "If the difference, is negligible and the Postmaster does not doubt the genuineness of the payer he should order the payment of the amount to the depositor. The depositor of SB A/c. No: 0191742 Sri B. Purushotham is a constable and well known to the staff of Dhone PO including himself. The C.O. further stated he had no doubt about the genuineness of the signature even though negligible difference was there, he admitted the transaction and ordered for payment and the depositor admitted to have received the payment from the counter. Hence

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the C.O. stated that the conclusion of the P.O. in his brief is not correct.

Findings:

12. The main allegation in the Article I of the charge is that Sri L. Balaiah has falsified the records of Savings Bank by furnishing different dates of withdrawal transaction on behalf of disciplinary authority the treasurer's cash book (SEX-8) was produced. It shows two entries of Rs. 30,000/- each on 12.12.1991. The Xerox copy of pass book A/c.No: 191742 (SEX-3) was produced, it shows the date noted in manuscript as 18.12.1991 and the date stamp impression bears correction in date and appearing as 18.12.1991. Sri B. Purushotham (S.W.1) Sri S.N. Sarma (S.W.2) and Smt. B. Munishwara Vali (S.W.3) was produced in support of the charge framed out of the these Sri B. Purushotham (S.W.1) the depositor of S.B. Account No: 191742, on whose statement the charges were mainly framed. He has deposed before Inquiry Officer on 13.08.1996. In his deposition he denied whatever mentioned in the statement which he signed on 16.2.1997 on the flag that the statement was not written by him, the contents of the statement was read and explained the contents. He deposed that it was informed to him that the statement was just with about the withdrawal of Rs. 33,000/- which he has taken, hence he signed the statement. He further stated that he offered to give the statement in Telugu but his offer was not cared for, in view of the revised deposition which was not contested and not proved as incorrect the fresh deposition has to be taken in the account. The main allegation is manipulation of accounts. If the depositor has not accepted the receipt or payment of withdrawn amount then only the question of manipulation of accounts arises.

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Here the depositor has accepted the amount from the counter even though he stated that he does n t remember the dates on which withdrawal was taken by him, the fact of receipt of money from the counte has to ~~be accepted~~ accepted. Because the amount of Rs. 30,000/- each was obtained by P.A. from the Treasurer on two occasions on 12.12.1991 and not Rs. 33,000/- at a time. If the amount received from the Treasurer was only Rs. 33,000/- then the doubt arises as to its payment to the SPM or the depositor. Here Rs. 30,000/- was obtained another Rs. 3,000/- added from the counter cash and disbursed. Further the passing order was entered by P.A. on the withdrawal form and not by SPM himself and the long book entry also made by the P.A. only. The most part of the transaction has taken place in the presence of P.A. and it can conveniently assessed that the payment of Rs. 33,000/- paid to the depositor at the counter itself as deposed by the depositor before Inquiry Officer on 13.8.1996. Regarding the date in the pass book it can be assessed as a clerical error by the SPM, because the Xerox copy produced as exhibit is not clear. As the depositor has admitted to have received the payment at the counter the Article I of the charge not proved.

13. The allegation in Article II of the charge sheet is that Sri L. Balaiah has brought into account a fictitious transaction and violated Rule 29(4) of Chapter 4 of Hand Book on P.O. SB Manual. In support of this article of charge it was mentioned that it was mentioned that Sri L. Balaiah has himself made an ~~copy~~ entry of withdrawal of Rs. 33,000/- in the SB ledger pertaining to SB A/c. No: 191742 of ~~gym~~ branch SCSO even though the SBPA was present and the attestation of SBPA was not obtained in the ledger and he has himself signed in the column provided, ~~xxxxxxxxxxxxxx~~ During the Inquiry

Sri L. Balaiah has admitted to have made the enquiry in the ledger and the pass book as the SBPA was not present at the counter when the depositor attended the counter. The P.A. attended later and on instructions from SPM, the P.A. obtained cash and handed over to the SPM. The SPM stated to have counted the cash and given to the P.A. and the depositor himself accepted to have received the amount from the counter. The warrant of payment (SEX-3) was passed by the SB Counter P.A. and the long book entry was made by the P.A. The P.A. has performed part of the transactions and the SPM has also done partially in this withdrawal. When each of the SPM and PA done partially, it indicated P.A. was absent when the depositor attended the counter. Further the depositor has accepted to have received the payment from the counter only. In view of the above it can not be said it is a fictitious transaction. Sri L. Balaiah, the C.O. has not obtained the signature of the P.A. in the ledger when the SBPA attended, but irregularly initialled the column provided for the signature of P.A., which he agreed during the Inquiry. In view of the article II of the charge regarding bringing into account fictitious transaction not proved and the making entry in the ledger and initialling in the place of P.A. proved.

14. In Article III of the charge sheet it was alleged that the signature on SB 7 of A/c. No: 191742 dated 12.12.1991 for Rs. 33,000/- has disowned as that of his by the depositor and the signature on the said SB-7 and that on record vastly differs. It is true that the signature on SB 7 dated 12.12.1991 differs with the signature in specimen signatures book (SEX-2 and SEX-3 respectively.). This article of charge levelled on the basis of the statement recorded on 16.2.1993 (SEX-6), which was disowned by the depositor during the Inquiry on the plea that it was not written by him, the

contents of the statement dated 16.2.1993 not read over to him and on merely informing that the said statement was regarding the withdrawal of Rs. 33,000/- made by him, he stated to have signed the statement. Further the deposited has accepted the signature on SB-7 (SEX-2) as that of his own and he has accepted to have received the payment from the counter during the Inquiry. The SPM is competent to allow the withdrawal of there is difference in the signature of the depositor is known to the SPM. In this case the depositor a Police constable is well known to the SPM and P.O. staff and the depositor has accepted the signature on SB-7 (SEX-2) as that of his own and also accepted to have received the amount from the counter, though there is a difference in the signature. The Article III of the charge not proved as it is not a fictitious transaction.

15. On the basis of documentary and oral evidence adduced in the case before me during the Inquiry and in view of the reasons given above, I hold that Articles I and III not proved and Article II partly proved and partly not proved. In the Rule 14 Charge sheet proved against Sri L. Balaiah, formerly SPM, Dhone LSB SO and present P.A. Adoni H.O..

Sd/-
(SYED ABDULLA)
Inquiry Officer and
Asst. Supdt. of Post Offices
Kurnool West Sub Division
KURNOOL.

//true copy//

To
Advocate
Counsel for the
Applicants

पत्र व्यवहार-22
Corr-22

भारतीय डाक विभाग / DEPARTMENT OF POST - INDIA

Regd. AD

प्राप्तकार अधीक्षक

From: SUPERINTENDENT OF POST OFFICES
करनूल मण्डल KURNool DIVISION
क्रम संख्या: करनूल KURNool 518 001

सेवा में Sri. L. Balasah
To: P. A., Adoni Ho. 618301.
दिनांक
dated at
विषय
Subject At. 6-3-1997.

NO: Inu/ F7-1/ 93/10

Sub:- Rule 14 case of Sri. L.
Balasah, P. A., Adoni Ho.

- 0 -

A copy of report of Inquiry
officer dated 27-1-1997, in 11 serials is
sent herewith. A copy of the differences
of opinion of the ~~and~~ disciplinary
authority, i.e. the undersigned, with the
findings of I.O. are furnished in the
enclosed annexure in 11 pages.

You are hereby given an
opportunity to submit your represen-
-tation to the Show cause notice, within
10 days, from the date of receipt of
this letter.

Encl: ① I.O's report
② Annexure.

(K. Chandra Sekhar).

प्राप्तकार अधीक्षक
SUPERINTENDENT OF POST OFFICES
करनूल मण्डल KURNool DIVISION
करनूल KURNool 518 001

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Annexure.

(2)

Article I:- The charge is that Sri. L. Balavah, while working as S.P.M., Dhoni L.S.G. S.O. for the period between 27-5-89 to 23-1-92 had charged withdrawal of Rs. 33,000/- in his S.B.A/c No. 191742 on 9-12-1991, (written in the Page Book) shows that the transaction he had taken place on 8-12-1991 and the deposited statement that he had not sought any withdrawal on 9-12-1991.

2. I. O. stated that in his report dated 27-1-93 he said that he stated that the depositor of S.B.A/c No. 191742, Sri. B. Purushotham (S.W.M.), on his deposition denied whatever mentioned in the statement, which he signed on 16-2-93, on the plea that the statement was not written by him that the contents of the statement were not read or told to him, that he was asked to sign it on the statement and that he had no objection to his signature. Therefore, I.O. stated that as the depositor had admitted to have received the payment at the counter, the article I. of the charge was not proved. I. O. does not agree with the first part.

(C.K.T.O.)

पत्र व्यवहार-22
Corr-22

भारतीय डाक विभाग / DEPARTMENT OF POST - INDIA

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प्रेषण
From
भाग संख्या
No.

सेवा में
To
दिनांक
dated at.
विषय
Subject

2

pendings of I.O. Sri. B. Purushotham, the S.W.1,
the depositor, of S.B. a/c. No. 191742, being a
Govt. Employee, working in police department and
who was also aged 48 years as on the date of
recording this statement i.e. 16-2-93, cannot
simply say now that the statement of 16-2-
93 given by him was not written by him; that the
contents were not read out to him; that he was
asked to (sign) on the statement and that
he had affixed his signature. Being a Govt.
Employee, aged 48 years, he should have
well aware of the consequences of
signing a statement without knowing the
contents. It is unbelievable that he had
signed the statement blindly. In his
deposition dated 13-8-96, Sri. S.N. Saarma, the
P.W.2, stated, that the statement marked
as S.EX-1, was written by him as deposed
by Sri. B. Purushotham. During the cross
examination of Sri. B. Purushotham by charged
official on 13-8-96, the S.E. P.W.1, Sri. B.
Purushotham, replied to question no. 1 that

(contd..)

(3) (4)

his statement was recorded in the P.O.

about taking payment of Rs. 33,000/- and that the statement was not read over to him, that the lawyer asked him to sign on the heart (he signed it and without his knowledge he preferred to give his statement in Telugu. He did not listen to him. It is surprising that the S.P.W.R.B. Sri. S.N. Sastry who recorded the above and

A statement of Sri. B. Purushotham was not re-examined in the matter nor the I.O. has tried to elicit the truth from the person, matter who is deputed to the statement.

It is further stated that the officer in the I.O. further stated that the officer the depositor had not accepted the receipt of payment of withdrawn amount other is only the question of manipulation of amounts arises. I don't agree with this contention. The depositor had accepted receipt of amount in his statement at 16-2-93. The charge is not regarding non-payment of amount to depositor but regarding charging account for the withdrawal of Rs. 33,000/- in the said account on 12-12-91 but still no entry is there showing the same entry on 18-12-91 (K.T.O.)

(... B.T.O.)

पत्र व्यवहा 7-22
Corr-22
B. van, G.T.L. J4/6/4/90/55-96
B. van, G.T.L. J4/6/4/90/55-96
B. van, G.T.L. J4/6/4/90/55-96

पत्र व्यवहा 7-22
Corr-22

भारतीय डाक विभाग / DEPARTMENT OF POST - INDIA

(4)

(5)

सेवा में

To

दिनांक

dated at

विषय

[Signature]

the Pass Book, whereas as the depositor ~~deposited~~ payment
on these particular dates i.e. 12.12.91 and 18.12.91.

The documentary evidence adduced during the
inquiry like the S.B. withdrawal form (S.Ex-4)
shows that the ~~to~~ transaction took place
on 12.12.91 and, while the P.B. (S.Ex-3A)
shows interest transactions on 18.12.91.

5. In his reply to question no. 4
of deposition at 13-8-96, as to why the
signature on the withdrawal form differed
with that on the record, S. B. Purushotham
replied that as it was written inscribed, it
happened like that. The signature in the
S.S. Book of phone L.S.G. S.O., S.Ex-2
was signed by him on 12-1-1981. He
signed one more time on 16-2-93 on
the statement, S.Ex-1, given before
ASPO(R) and another time in deposition
at 13-8-96 during the inquiry. As seen
from the above, the mode of signature
had clearly tallied with one another.
The signatures also tallied to the maximum
extent. But the signatures on the
withdrawal form at 12.12.91, (S.Ex-4) (contd...)

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(5) 0

were quite different from that on S.S. Book.
The I.O. had failed to notice this during
the inquiry.

36. ^{It is to be noted that the I.O. had relied only on}
The denial of the contents of S.S. Book
of S. B. Puri & Sons, the depositor
(S.W.1). The I.O. did not take pains
to verify the accuracy of the enclosed
(Ex. 2) typed statement of the
Contents by questioning S. B. Puri & Sons
for giving who made the statement.
They did not also check the document
for any evidence of signature or stamp
of T. M. deposition part. 14.8.96. of
S. B. Puri & Sons (S.W.3).
Taking into account while arriving at
the decision. In her deposition at 14.8.96
(S.W.3) had unequivocally stated
no in reply to question no. 3
pertaining to whether the depositor
of the S.B. A/c presented at the
Counter in person on 12.12.91. It
is also surprising to note that
why the I.O. did not take into
account the deposition of S.W.1
(Ex. 2) against the I.O.

Pavan, GTL: J4/6-4/90/95-96
dt. 22-11-95 5000 pads

पत्र व्यवहार-22
Corr-22

भारतीय डाक विभाग / DEPARTMENT OF POST - INDIA

6

सेवा में

T.

दिनांक: ११
dated at

विषय
Subject

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who stated that he did not remember the date or at least the person who gave him such huge amount is male or female and how her strongly I believed only from the Daniel of the contents of the statement (3. Ex-1)

Under these foregoing circumstances I had no other option except to disagree as with the findings of the I.O. with regards to Article T. I therefore hold the charge as proved.

18/7/1989 Article II :- The article II, is that Sri. L. Balaiyah, while working as SPM, Dhoni, S.G. S.O. for the period from 15-5-89 to 13-1-92 had made the withdrawal entry of Rs. 33,000/- in S.B. ledger of S.B. a/c no: 191742 without getting the signature of SBPA attested infringing Rule 29 of Chapter 4 of Hand Book of Postal Savings Bank which prescribes that the each entry of (Contd.)

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(7)

transaction should be attested by the initials of the SPM, is to be noted by the SRA and the signature of SRA and the SPM had to note on the balance column only in view of Gotginn and Annexed to such findings, the Inspector stated that the article II of the charge regarding bringing into account fictitious transaction not proved and they making entry in the ledger and initialling in the place of P.A. proved.

10. (Sri. L. Balaiyah) The charge is that Sri. L. Balaiyah made entry of the withdrawal of Rs. 33,000/- in S.B. A/c 191742 in S.B. ledger violating the provisions of Rule 29 (4) of Chapter 4 of Hand Book of P.O. S.B. and

1. This deliberate act had shown that Sri. L. Balaiyah had brought into account a fictitious transaction.

2. The first part of the charge was substantiated by the documentary and oral evidence adduced during the inquiry regarding bringing into account a fictitious transaction.

(K.T.O)

Pavan, O.T.L. J4/6-4/90/95-96
dt. 22-11-95 5000 pads

पत्र व्यवहार-22
Corr-22

भारतीय डाक विभाग / DEPARTMENT OF POST - INDIA

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प्रेषक
From

क्रम संख्या
No.

(8)

सेवा में

To

दिनांक
dated at

विषय
Subject

the I.O. stated that in view of the depositor had accepted to have received the payment from the counter only, it cannot be said it is a fictitious transaction. I do not agree with the findings of I.O. This aspect was already discussed in detail in paras Nos. 3 and 4 above. It is evident that, the P.W.1, Sri. B. Purushotham was won over by the charged official and hence the P.W.1 turned hostile during Rule 14 Inquiry. But his original statement recorded during the preliminary enquiries speaks the facts based on documentary evidence. Hence I hold this charge as proved.

It is in Article III that the article III is that Sri. L. Balaiah, while working as SPM, Dhoni, during the period from 13-5-89 to 13-1-92 has not correctly verified the signature of the depositor of SBALC 191742 in the withdrawal form.

(17)

(contd.)

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for Rs. 33,000/- as the depositor had disowned the signature appearing on the withdrawal form.

(2) At the time the I.O. had held the charge as not proved as the depositor had accepted the signature on SB-7 (S. Ex-2) as that of his own and he has accepted to have received the payment from the Counter, during the I.O. inquiry.

The solution to 2 do not agree with the findings of I.O. During the examination, the depositor Sri. B.P. Purushotham stated that he received the payment of amounts that he does not

remember whether the person giving the amount was a male or a female person, and also that he does not remember whether the amount withdrawn form was written by him

or somebody else. In the withdrawal form, S. Ex-4, the date was noted as 12.12.91, below

(..(tm)) the signature written deposit of (K.T.O)

पत्र व्यवहार-22
Corr-22

भारतीय डाक विभाग / DEPARTMENT OF POST - INDIA

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प्रेषक
From
भूम संख्या
No.

10

सेवा में
To
दिनांक
dated at
विषय
Subject

In the Pass Book the S. size 3A, the date of transaction was noted as 18-12-91. It is surprising that the depositor was not questioned as to whether he had not checked the transaction in the "Pass Book" immediately, to know whether he had received the amount from the counter. It is evident that he had not received the amount from the counter on 12-12-1991.

(4) During the cross examination by the Court Smt. B. Munichandravali Bai, P.W.3, to the question no: 3, whether the depositor of the account under reference presented at the counter, in person, she replied "no". and to question no: 7 whether the Pass Book was presented at the counter or only S.B. withdrawal form received, she replied that "only withdrawal form received".

To another question i.e. no: 4 she "(contd..)"

(contd..)

(11)

replied that she had not given the amount withdrawn to the depositor. She had no remembrance and she had given the amount to S. L. Balaiyah, the S.P.M. the charge official. S. L. Balaiyah was not examined by the I.O. in the matter.

15) The documentary and oral evidences adduced during the inquiry substantiate that the transaction was allowed and accounted for on 12.12.91, by the C.O.C.S.P.M., S.L. Balaiyah, though the amount was not actually paid to the depositor on that day and it was paid to the depositor subsequently, after making entry in the Pass Book. Thus the charge levelled against S. L. Balaiyah in article III has been proved beyond doubt. I therefore hold this charge as proved.

(H. Chandra Sekher)

SUPERINTENDENT OF POST OFFICES
गवर्नमेंट पोस्ट ऑफिस
कर्नाटक, मद्दल कुम्हूल डिविशन
कर्नाटक KURNOOL 518 001

~~T. C. S. L. Balaiyah
for the
Court of Appeal~~

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From:
Supdt. of P.Os
KVRNOOL

TO
Sri L. Balaiah
P.A., Adoni HO 518301

No: Inu/F7-1/93/10

Dt: 6.3.1997.

Sub:- Rule 14 case of Sri L. Balaiah, P.A. Adoni H.O.

A copy of report of inquiry Officer dated 27.1.1997 in 11 serials is sent herewith. A copy of the differences of opinion of the Disciplinary authority, i.e., the undersigned with the findings of I.O. are furnished in the enclosed annexure in 11 pages.

You are hereby given an opportunity, to submit your representation to the show cause notice, within 10 days from the date of receipt of this letter.

Encl: 1. I.O's report

2. Annexure.

Sd/K. Chandrappa Sekhar
Supdt. of post offices
Kurnool Division: Kurnool.

~~SECRET~~

Annexure

Article I:- The charge is that Sri L.Balaiah, while working as S.P.M. Dhone L.S.G.S.O for the period from 15.5.89 to 3.1.92 had charged withdrawal of Rs. 33,000/- in S.B. A/c No: 191742 on ~~12.12.91~~ 12.12.91, while the pass book shows that the transaction had taken place on 18.12.91 and the depositor stated that he had not sought any withdrawal either on 12.12.91 or 18.12.91.

2. In the Inquiry report dt. 27.1.97 the I.O. stated that the depositor of S.B.A/c 191742, Sri B. Purushotham (S.W.1) in his deposition denied whatever mentioned in the statement which he signed on 16.2.93, on the plea that the statement was not written by him; that the contents of the statement were not readout to him; that he was asked to sign on the statement and that he had affixed his signature. The I.O. stated that as the depositor had admitted to have received the payment at the counter, the article I of the charge was not proved.

3. I do not agree with the findings of I.O. Sri B. Purushotham, the S.W.1, the depositor of S.B.A/c No: 191742 being a Govt. Employee working in Police Department and who was also aged 48 years as on the date of recording his statement i.e. 16.2.93, cannot simply say how that the statement dt. 16.2.93 given by him was not written by him; that the contents were not readout to him; that he was asked to sign on the statement and that he had affixed his signature. Being a Govt. employee, aged 48 years, he should have well aware of the consequences of signing a statement without knowing the contents. It is unbelievable that he had signed the statement blindly. In his deposition dated 13.8.96, Sri S.N.Sarma, the P.W.2, stated that the statement marked

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as S.Ex.1, was written by him as deposed by Sri B.Purushotham. During the cross examination of Sri B.Purushotham by charged official on 13.8.96, the P.W.1, Sri B.Purushotham replied to question No:1 that his statement was recorded in the P.O. about taking payment of Rs. 33,000/- and that the statement was not readover to him, he was asked to sign. so, he signed and though he preferred to give his statement in Telugu, he did not listen to him. It is surprising that the P.W.2 Sri S.N.Sarma, who recorded the above statement of Sri B.Purushotham was not cross examined in the matter nor the I.O. tried to elicit the truth from the person, who recorded the statement.

4. The I.O. further stated that if the depositor had not accepted the receipt of payment of withdrawn amount then only the question of manipulation of accounts arises. I donot agree with this contention. The depositor had accepted receipt of amount in his statement dt. 16.2.93. The charge is not regarding non-payment of amount to depositor, but regarding charging/amounting the withdrawal of Rs.33,000/- in the said account on ~~12.12.91~~ 12.12.91, but showing the same entry on 18.12.91 in the pass book; where as the depositor denied payment on these particular dates i.e. 12.12.91 and 18.12.91. The documentary evidence adduced during the inquiry i.e. the S.B. withdrawal form (S.Ex.4) shows that the transaction took place on 12.12.91 and while the P.B. (S.Ex.3A) shows the transaction on 18.12.91.

5. In his reply to question No:4 of deposition dt. 13.8.96, as to why the signature on the withdrawal form differed with that on the record, Sri B.Purushotham replied that as it was written inspeed, it happened like that. The signature in the S.S. Book of Dhone L.S.G.S.O, S.Ex.2 was signed

by him on 12.1.1981. He signed one more time on 16.2.93 on the statement, S.Ex.1, given before ASPOs(R) and another time in deposition dt. 13.8.96 during the inquiry. As seen from the above, the mode of signature had clearly tallied with one another. The signatures also tallied to the maximum extent. But the signatures on the withdrawal form dt. 12.12.91 (S.Ex.4) were quite different from that on S.S.Book. The I.O. had failed to notice this during the inquiry.

6. The I.O. had relied only on the denial of the contents of S.Ex.1 of Sri B.Purushotham, the depositor (S.W.1). The I.O. did not take pains to verify the veracity of the contents of the statement (S.Ex.1) by questioning Sri S.N.Sarma (S.W.2) who recorded the statement. He did not also take the documentary evidence such as P.B. (S.Ex.3A) and deposition dt. 14.8.96 of Smt. B.Munichandrali, Bai (S.W.3) into account while arriving at decision. In her deposition dt. 14.8.96 (S.W.3) had unequivocally stated 'no' in reply to question No:3 stating that whether the depositor of the S.B A/c presented at the counter in person on 12.12.91. It is also surprising to note as to why the I.O. did not take into account the deposition of S.W.1 who stated that he did not remember the date or atleast the person who gave him such huge amount, is male or female and how he strongly believed only on the denial of the contents of the statement (S.Ex.1) of the S.W.1.

7. Under these foregoing circumstances I had no other option except to disagree with the findings of the I.O. with regards to Article I. I therefore hold the charge as proved.

8. Article II:- The article II is that Sri L.Balaiah, while working as SPM, Dhone LSG S.O. for the period from

15.5.89 to 13.1.92 had made the withdrawal entry of Rs. 33,000/- in S.B Ledger of S.B.A/c No: 191742 without getting the signature of SEPA attested infringing Rule 29 of chapter 4 of Hand Book of postal Savings Bank which prescribes that the each entry of transaction should be attested by the initials of the SPM, is to be noted by the SEPA and the signature of SEPA and the SPM had to note the balance column only.

9. In the findings, the I.O. stated that the article II of the charge regarding bringing into account fictitious transaction not proved and the making entry in the ledger and initialling in the place of P.A. proved.

10. The charge is that Sri L.Balaiah made entry of the withdrawal of Rs. 33,000/- in S.B.A/c 191742 in S.B. ledger violating the provisions of Rule 29(4) of chapter 4 of Hand Book o. P.O.S.B. and this deliberate act had shown that Sri L.Balaiah had brought into account a fm fictitious transaction. The first part of the charge was substantiated by the documentary and oral evidences adduced during the inquiry. Regarding bringing into account a fictitious transaction the I.O. stated that inview of the depositor had accepted to have received the payment from the counter only. it cannot be said it is a fictitious transaction. I do not agree with the findings of I.O. This aspect was already discussed in detail in paras Nos. 3 and 4 above. It is evident that, the P.W.1, Sri B.Purushotham was won over by the charged official and hence the P.W.1 turned hostile during rule 14 Inquiry. But his original statement recorded during the preliminary enquiries speaks the facts based on documentary evidence. Hence I hold this charge as proved.

II. Article III:- The article III is that Sri L.Balaiah

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While working as SPM, Dhone during the period from 13.5.89 to 13.1.92 has not correctly verified the signature of the depositor of SB A/c 191742 in the withdrawal form for Rs. 33,000/- as the depositor had disowned the signature appearing on the withdrawal form.

12. The I.O. had held the charge as not proved as the depositor had accepted the signature on S.B.7 (S.Ex.2) as that of his own and he has accepted to have received the payment from the counter, during the inquiry.

13. I do not agree with the findings of I.O. During the examination, the depositor Sri B.Purushotham stated that he received the payment of amounts that he does not remember whether the person in the counter was a male or female person and also that he does not remember whether the withdrawal form was written by him or somebody else. In the withdrawal form, S.Ex.4, the date was noted as 12.12.91, below the signature of depositor. In the pass book the S.Ex.3A the date of transaction was noted as 18.12.91. It is surprising that the depositor was not questioned as to whether he had not checked the transaction in the pass book, immediately, if he had received the amount from the counter. It is evident that he had not received the amount from the counter on 12.12.91.

14. During the cross examination by the C.O., Smt. B. Munichandrali Bai, P.W.3, to the question No:3, whether the depositor of the account under reference presented at the counter in person, she replied 'no' and to question No:7 whether the pass book was presented at the counter or only S.B. withdrawal form received, she replied that "only withdrawal form received." To another question i.e. No:4 she replied that she had not given the amount withdrawn to the depositor, she had no remembrance and she had given the amount to

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:7:

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Sri L.Balaiah, the S.P.M. The charge official, Sri L.Balaiah, was not examined by the I.O. in the matter.

15. The documentary and oral evidences adduced during the inquiry substantiate that the transaction was allowed and accounted for on 12.12.91, by the C.O. (SPM) Sri L.Balaiah, though the amount was not actually paid to the depositor on that day and it was paid to the depositor subsequently, after making entry in the pass book. Thus the charge levelled against Sri L.Balaiah in article III has been proved beyond doubt. I therefore hold this charge as proved.

Sd/-K.Chandra Sekhar
 Superintendent of Post Offices
 Kurnool Division: Kurnool.

T.C
 T. S. Balasubramanian
 Counsel for the
 Appellant

Annexure 5

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DEPOSITION OF WITNESS

IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE :: KURNOOL
O.S.NO. 138/1992.

Deposition of 5th witness for Plaintiff.

Oath administered by Sri P. Ananthasen Rao,
B.Sc., LL.B., Additional Subordinate Judge, Kurnool in accordance
with the Provisions of Rule 4 of Oath Act, 1969.

Name: B.Purushotham.

Village: Adoni.

Father's name: Lakshmana.

Taluk: Adoni.

Age: 55 years.

Religion: Hindu.

Calling: Head Constable.

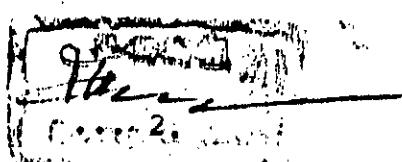
Date: 8.8.1997.

Chief-Examination: I am presently working as ~~Khemi~~ Head Constable in Adoni Traffic Police Constable. In the year 1992, I am ~~working~~ in Rudravaram village, and in the year 1993, I was working in Bethancherla, P.S. I was residing in Dhone in House bearing Dr.No. 10/54A, Kothapet, Khemani. The signature shown in statement dt. 16.2.1993 is made by me. I am having account in Dhone Post Office with A/C.No.191742. The original pass book shown to me bearing A/c. No.191742 relates to me which corresponds to Ex.A17 certified copy of pass book relating to my account. Postal authorities have approached him and took signature in a statement. At request of learned counsel for the plaintiff, witness is declared as hostile as witness is denying the contents of the statement containing his signature dt. 16.2.1993. ~~Ex. ix~~

It is not true to suggest that at my dictation, my statement was recorded by postal authorities and then I signed in the statement dt. 16.2.1993. Ex.~~Ex. 60~~ is the statement containing my signature. I have not dictated the contents of statement. It is not true to suggest that at my dictation, the said statement is recorded. I did not state in my statement about my not signing in withdrawal form for Rs.33,000/- on 12.12.1991. It is not true to suggest that I stated in Ex.61 statement ^{dicta} that I could not sign in withdrawal form for Rs.33,000/- on 18.12.1991.



M. K. S.
H. 1567



79/82

11211 03/02/1992

It is not true to suggest that I stated in Ex.C1 statement about my subsequent receiving Rs. 33,000/- from D1. It is not true to suggest that in Ex.C1 I also stated that I am voluntarily giving the statement relating to the contents of Ex.C1 statement to the best of my knowledge. It is not true to suggest that I stated in Ex.C1 about my handing over original pass book to specimen postal authorities for enquiry. The signature shown to me in Ex.C2 is my signature at 31. Nov. 1974 at page No. 42. The specimen signature shown to me in Ex.C3 is made by me. The signature shown to me in Ex.C4 is made by me. It is not true to suggest that the signature in Ex.C4 is not made by me. It is not true to suggest that in order to help the defendants, I am deposing falsely.

Cross examination on behalf of D1 and D2:- The Head Post Master, Dhoni had informed me that I have to keep evidence about D1 receiving money from me unauthorisedly. I did not make any complaint against D1 relating to at anytime D1 misappropriating my amount, so also, I did not give any statement before any authorities about D1 misappropriating my amount at anytime. Whenever I had to withdraw money from my Post Office account I will be personally going over to Post Office and withdrawing the amount from my account. Some Superintendent and Supervisor asked me to sign in Ex.C1, as such, I signed in Ex.C1. Till I am shown, Ex.C1 statement today, I do not know the contents of Ex.C1 statement.

Re-examination:- Nil.

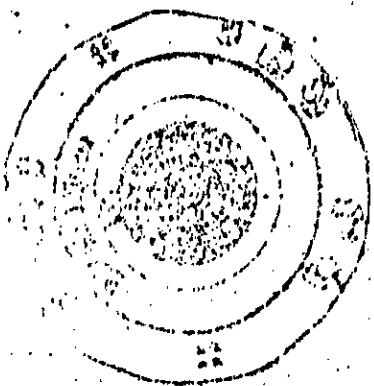
Blunder

112158-7

I do not know the contents of Ex.C1 statement. I have read over it to the best of my knowledge and I do not know the contents of Ex.C1 statement to be true.

I Addl. Subordinate Judge,
Kurnool.

*T.C.
W. N. Subba Rao
Counsel for the
Applicant*



Deposition of Sri B. Purushottam, Hc. 1567, Adoni Traffic P.S
made on 12.2.96 as PW. 1.

My name is Sri. B. Purushothamulu, I am 51 years old. I am working as S.I. in the Traffic P.S. of Adoni. I am working for the past two years. On 16.2.93 I was working at Bathamchurla as Police constable. The statement dated 16.2.93 given to me is not written by me and the contents were not read out to me, I was asked to sign on. The statement, and I have affixed my signature. The entire contents of the statement are false.

P.O. declared the witness as hostile and the P.O. wants to cross examine the witness. However the P.O. is asked to state the facts of the case first. Hence the P.O. is asked to commence examination in brief.

Mr. S. N. S. K. agrees to file the recording of the tape.

The condonation of the C.O. is agreed and the P.W. 1 is asked to state the facts of the case.

Fresh depositions by the P.W. I.

~~1000~~
A G.S. ~~Bank of America~~ 131874 PO 131874 S.D. 131876
131874 PO. S.O. 131876

B. Frederick
PCW-1. fall

శ్రీరామం గుండి నంద్యాలు (ముఖ్యమైను) ఉచ్చ నెసువేసి
కు క్రీ లూ రూ 3000/- రైస్ గుర్తించు చే కూడ్తి స్వీసు.
పూరము గుర్తించు అంగులు చుట్టూ పే వీసి వీపు
ఉఁచుపే యుక్కా తాలి అంగులు గుర్తించు గుర్తించు
పే కు రై సే తేపును స్వీసు. ఈ జ్యో ముఖు కు సంతు
ష్టు ఉఁచు కి. నూకు సంతుష్టి ను నుండి కంటే కంటే
(వీసి కు). అచ్చు ఉంచు. వి. వీ ఉఁచు ఉఁచు ను వీసి
రై 12.12.91 లో కు సే సంతు కంటే వీసి వీసి
అచ్చు ను స్వీసు. వీరు సంతు నుండి వీసి సంతు కంటే
అం కు ఉఁచు నుండి గెస్ట్ రూపించు కు సుమం కు స్వీసు.
ముందు నుకు ఉఁచు అంగులు రై 3,000/- రూపి.
ఎరువు ముందు కి వి. సై. కైమాచు ను స్వీసు. కాబి
సైన్సు కు తాలికటి వి తీకులు ఉండు విసుకుపు ఉ
గుర్తించు.

B. parvula
Pew. T. Bell

Examinations esse hæc.

Q. 1. మైగ్రేట్ లవ్స్ 33,000/- రూపాయిలు లావ్ లో ఉన్న కు
ట్ లో ఏను కు స్థిరా?

ఇ.ఇ. తాళ్ళు కొలఁటకొండా. ఉచ్చి త్వరితి ఉఁడ వ్యవస్థామా వ్యక్తి ఏ ర్థము పేసు కేవలిష్టయమండి?

Mr. ఎం వాసుదేవ

Q.3. రూ 33,000/- లు పొన్నంబందండున విచికల నుండి త్రాగిపున్న అమ్మి పేరునే సుందర్చ కీ ద వివరాలు క్రింద వివరించునాయా?

Ans. no is as.

~~Ag-S.~~ ~~Specimen~~ : 4-LRao 13/5 56 13/5/96 Bleach
C.O. 13/5/96 P.O. 9.0 13/5/96 To 1
PCO-1

82 8
85

Q. 4. ଯିହେ କୁଳାଙ୍ଗ ଯକ୍ଷା ରମ୍ଭା ନ କି କ୍ଷେତ୍ରରେ କିମ୍ବା
ନମ୍ବରରୁ ନାହିଁ କିମ୍ବା ପରିକାରରୁ କିମ୍ବା କିମ୍ବା
କିମ୍ବା କିମ୍ବା କିମ୍ବା କିମ୍ବା କିମ୍ବା କିମ୍ବା କିମ୍ବା କିମ୍ବା

ମାତ୍ରା କି କୁଳାଳର ବ୍ୟାପକ ଦେଖିବାରେ କିମ୍ବା କିମ୍ବା କିମ୍ବା କିମ୍ବା

ప.ట. విశ్వ గోలుంబ లంకాకు పోలి ప్రశ్నిని ప్రశ్నిల్లిపి అంగు వ్యాప్తి యొగ పరా.

అనుమతి పత్రాలు.

Examination des étages complets.

Cross examination by C. O.

Q. 1. ఏప్రిల్ 16.2.93 న నూరు ట్రిప్లెంట్లు ఇంజన్లునకు నుండి ప్రారంభించాడు.

cross examination completed.

~~AGS~~ ~~Specimen~~ ~~47860~~ ~~P.O.~~ ~~58~~ ~~1318196~~ ~~Specimen~~
~~C.O. 1318196~~ ~~P.O.~~ ~~9.0.~~ ~~P.W-1~~

T.C
John Salter
Counsel for
Applicant

Deposition of Sri B. Purushotham HC 1567 Adoni Traffic P.S. made on 13.8.96 as P.W.1.

My name is Sri B. Purushotham S/o: Sri B. Lakshmann, my age is 54 years. I am working as HC in the Traffic P.S. of Adoni for past two years. On 16.2.1993 I was working at Bethampcherla as Police Constable. The statement dated 16.2.1993 given by me is not written by me and the contents were not read out to me. I was asked to sign on the statement and I have affixed my signature. The entire contents of the statement are false. P.O. declared the witness as hostile and the P.O. wants to cross examine the witness. However the P.W. is asked to state the facts of the case first. Hence the P.O. is asked to continue examination in chief.

English Translaction:

Question 1: I am showing the record containing the specimen signature relating to your SB Account No: 191742. Please tell whether the signature therein is yours.

Ans: I am telling that the signature is of myself.

Fresh Depostion by the P.W.1:

I am to state that the contents of the statement dated 16.2.1993 now shown to me are not true. I now see the entry of withdrawal of Rs. 33,000/- (Thirty three thousand only) on 18.12.1991 in my pass book No: 191742. I have received the amount of Rupees Thirty Three thousand shown as withdrawn therein. I have seen the SB withdrawal form you have now shon. I am not able to recognise it as the one with which I withdrew Rs. 33,000/-. But I am not saying that I have not recognised the form. What I mean is that I am not able to say the dates I have received. I state that the specimen signature (S.Ex-2) and the signature in the withdrawal form dated 12.12.1991 are of myself. I

:2:

certify that all the signatures shown to me are of myself and I have received the amount that is Rupees Thirty Three thousand. I do not remember on which date I made the withdrawal.

Examination in Chief:

Q1: From whom you have received the amount of Rs. 33,000/-.

Ans: I received the amount from the person who was at the cash counter on that day.

Q2: Please remember and tell who was at the cash counter male or female.

Ans: I do not know.

Q3: Have you, yourself prepared withdrawal form or you got it prepared through some other person.

Ans: Do not remember.

Q4: There is difference between the signature on the withdrawal form and in the record of the specimen signatures. What do you say.

Ans: The difference may be due to writing speedily.

Q5: Can you sign as you have signed on the withdrawal form.

Ans: No

Q6: It is recorded in the pass book that an amount of Rs. 33,000/-, was withdrawn on 18.12.1991. According to withdrawal from the amount was taken on 12.12.1991 what do you say.

Ans: I do not remember either 12th or 18th date. I do not remember timings, date. I received amount of Rs. 33,000/-

Examination in chief completed cross examination by C.O.

Cross Examination by C.O.:

Q.1: You have given a statement on 16.2.1993 for ~~xxxx~~ what purpose you have given the statement.

Ans: Two people came and recorded a statement regarding Rs. 33,000/- received by me on the post office. They did not read over the statement to me. They asked me to sign I have signed - I told them that I will give my statement in Telugu - They did not heed.

Cross examination completed.

Sd/-
AGS

C.O.

P.O.

I.O.

P.W.l

Translated by
D. Subrahmaniam
Advocate.

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From:

L. Balaiyah,
Postal Asst,
ADONI-HO
On leave at HYDERABAD

To:

The Superintendent of
Post Offices,
Kurnool Division,
KURNOOL 1

Sir,

Sub: Submission of Final representation to the
Supdt. of Post Offices, Kurnool on the opinion
of S.POs differing with I.O findings in the
Rule-14 - Inquiry - Regarding

Ref: INV/F7-1/93/10 dated 6.3.97.

With reference to your letter cited above, a detailed
representation on the above subject is furnished for your sym-
pathetic consideration.

ARTICLE-1

In this Article it was alleged that the charged official had
charged a withdrawal of Rs.33,000/- in S.B.A/c.No.191742 on
12.12.1991 while the Pass Book shows that the transactions
took place on 18.12.91 and that the Depositer denied request
of any withdrawal either on 12.12.91 or 18.12.91.

The entire arguments of the disciplinary authority
for differing with the I.O. findings are based on Two points:

(1) That the SW-1 Sri B.Purushotham, the Depositor of
S.B.A/c.No.191742 being a Govt. employee in Police Department
cannot go back from his statement recorded on 16.2.93 as he
is a Govt. employee.

(2) Having signed the statement on 16.2.93 the SW-1
cannot deny it on subsequent date simply because he signed
the same blindly which is unbelievable.

(3) The I.O. should have ^{try to} elicit the truth from SW-1.

Regarding the above reasons, I am to submit that
the SW-1 Sri B.Purushotham is a constable in the Police Depart-
ment in the State Govt, wherein the official language was
Telugu only. So naturally he was right in stating that he
had told the statement in Telugu vernacular to SW-2 S.N.Sharma
for translating into English to record his statement accordingly.
As SW-1 was not permitted for giving statement in his own hand
and in Telugu and thinking that all the facts that were narrated
by him were correctly written in the statement, he signed the
statement dated 16.2.93. When the above statement was read
over by the I.O. in the inquiry by translating in Telugu the
SW-1 understood that the facts he actually narrated were

(contd..p.2)

misrepresented by SW-2 for the reasons best known to the SW-2 and as such the SW-1 Sri B.Purushotham, Depositor of SB-A/c.No.191742 totally denied the contents of statement dated 16.2.93 before the I.O. and rightly stated that the contents in the statement dated 16.2.93 were wrong, and he simply signed the said statement keeping full faith, the SW-2 being an Officer that the grounds narrated by the SW-1 differ with the statement dated 16.2.93 are believable and true. Under these circumstances which are not taken into cognizance by the S.P.Os.Kurnool, Sri S.N. Sarma SW-2 had failed to explain the reasons for not allowing the SW-1 to give the statement in Telugu whereas the SW-2 S.N.Sarma allowed another witness Smt.B.Munichandravalli Bai SW-3 to write the statement dated 23.2.93 (SE-5) in Telugu. This clearly proves that the SW-2 pre-determined to mis-represent the facts actually narrated the facts by SW-1 just to implicate me in the case. Here I may be permitted to submit that the entire matter narrated in the Article I to III related to the SB-A/c.No.191742 pertaining to a withdrawal made by the SW-1. Just to implicate me and harass me in any way one and the same matter was split into three articles and a charge sheet was issued to suppress this type of attitude, the representation of administration Sri S.N.Sarma, SW-2 will ^{truly} mis-represented the facts stated by SW-1 on 16.2.93.

As Sri B.Purushotham, Depositor of SB-Ac./No.191742 and SW-1 on oath deposed during the inquiry before the I.O. that he attend the SB-Counter on 12.12.91 and signed the SB withdrawal form and took payment Rs.33,000/-across the counter. He also stated in unambiguous terms that the signature on the SB withdrawal form were that of his own hand there will be slight difference in his signature which is negligible and this type of variation can be seen from the signatures taken on the depositions in various pages by I.O. himself. Even the D.G.Post letter No.30-9/83 SB dated 23-1-86 empowers the Postmaster to allow the payments if there is negligible difference between a specimen signature and that is available in SB-7 voucher. As such and in the above circumstances and as the SW-1 was a Government Employee in the Police Department and personally known to the SPM and staff, the charged official was right to pass the SB withdrawal of Rs.33,000/-

The withdrawal of Rs.33,000/-took place on 12.12.91 according to the date stamp impression on the SB-7 voucher

and according to the date of transaction noted in the SB-long book which was maintained by the SBPA Smt. B. Muni-chandravali Bai SW-3, the only point of allegations in the Article I and the reason to differ with the I.O. finding is the corrections made in respect of Date Stamp impression in the Pass Book from 12.12.91 to 18.12.91. As the withdrawal of the Rs.33,000/- were taken into account on 12.12.91 only and the Date Stamp was impressed as 12.12.91 and SW-3 Smt. Munichandravali Bai also did not say anything about the corrections in the Pass Book. On the actual date of transaction, the Principal Witness SW-1 stated before the I.O. on 13.8.96 that he was paid on the date appearing on the SB-7 voucher, the date of transaction took place on 12.12.91. As the SB-7 voucher and its contents were never disputed either by the Prosecution Witnesses or by the Presenting Officer, as the withdrawal was accounted for in the records, the withdrawal was genuine and the charged official, no way connected with the corrections that were seen in the Pass Book.

As the deposition of SW-1 given on 13.8.96 before the I.O. was not contested by the Prosecution and not proved as incorrect and moreover declaring SW-1 as hostile proves that the revised deposition of SW-1 had been accepted by the prosecution. As per the settled law, the I.O. has no other go except to take the revised deposition of SW-1 into cognizance to evaluate the evidence for arriving at a decision in the matter.

In addition to the above the SW-1 Sri C. Ramanujanayulu stated before the I.O. that the SW-3 Smt. Munichandravali Bai took Rs.30,000/- each twice from Treasury on 12.12.91. This shows that the SW-3 Smt. Munichandravali Bai took cash 3,000/- from the counter to add to 30,000/- taken from Treasury and got it disbursed to the Depositor SW-1 across the counter. Moreover the SW-1 gave acquittance in the SB-7 voucher having received the amount of withdrawal and accepted the signature thereon i.e., of his own, Substantiate that the transaction was genuine and took place on 12.12.91.

Thus the I.O. was right in declaring the allegations levelled in Article-I as not proved which was based purely on the revised, uncontested deposition of SW-1. Hence the ~~be on~~ ^{to remain} ~~statement~~ ^{of} Supdt. of Post Office ~~of~~ fresh and cause issue of orders to drop the allegations in respect of Article-I which are not based on facts.

ARTICLE-II

In this Article, it is alleged that the charged official had made the withdrawal entry of Rs.33,000/-in SB-Ledger pertaining to A/c.No.191742 without obtaining the signature of S.B.P.A.

In the finding the I.O. stated that the charge regarding bringing into a/c. a fictitious transaction has not proved and making of entry in the ledger and initialling in the place of P.A. as proved.

The S.P.Os. furnished the reasons to differ the above I.O. findings based on the following points:

- (1) The SW-1 S.Purushotham was won over by the charged official and hence the SW-1 turned hostile during the Rule-14 inquiry.
- (2) The original statement of Sri B.Purushotham dated 16.2.93 must be taken as genuine and as such the charges are proved.

The charged official submits that the revised deposition dated 13.8.96 of SW-1 given before the I.O. for the reasons already narrated in the foregoing paras, relating to Article-I is to be taken into cognizance. The SW-1 clearly admitted that the transaction of withdrawal of Rs.33,000/- which took place on 12.12.91 was correct and the signatures appearing on SB-7 voucher, and undisputed document by the Prosecution as well as by the State witnesses, were made by the SW-1 only. Moreover the SW-3 Smt. Munichandrali Bai, S.B.P.A. checked the SB-7 voucher signed the bottom portion below the signature of the Depositor having carried out the prescribed check, passed the SB-7 voucher and the Pass Book were kept in the Ledger and transferred to the S.P.M. Thus the transaction was undoubtedly genuine and not a fictitious one. At the time of checking by the S.P.M. the charged official had seen that the prescribed checks were carried out by SW-3 i.e., S.B.P.A. and there was negligible difference between specimen signature and signatures available on the SB-7 voucher. The charged official signed and passed the voucher for payment. At this stage the charged official observed that the SW-3 Munichandrali Bai did not make necessary entries of withdrawal both in the S.B.Ledger and Pass Book and SW-3 was aware from her seat to attend (...p.5)

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her nature's call, thinking that this may be an omission on her part made withdrawal entries both in the Pass Book and S.B. Ledger. This was done only in good faith and to avoid the possible carrying away the mistake as such by the SW-3 which may cause difficulties in future. There is no bad motivation for the charged official in respect of posting entries in the Pass Book as well as in the S.B. Ledger.

The reasons put forth by the Disciplinary authority was won over is wholly untenable and the same was based on no evidence. A mere statement based on suspicion and surmise cannot be taken as evidence in place of proof. The circumstances that were led to give the revised deposition were given by the SW-1 before the I.O. The prosecution merely accepted the revised deposition of SW-1 by declaring him as a hostile witness, just because he told truth before the I.O. Moreover the presenting officer had not elicited any points worth useful for the prosecution in the cross-examination of SW-1. As per the settled law, the revised deposition given by the SW-1 in the inquiry before the I.O., but not disputed statement dated 16.2.93, has got evidential value. So I.O. was right in declaring the Article of Charge No. II as not proved and hence the disciplinary authority is requested to reconsider the matter and cause issue of orders to set-aside the article of charge.

ARTICLE III

In this article, it is alleged that the charged official had not correctly verified the signature of the depositor of SB-A/c. No. 191742 in the withdrawal form for Rs. 33,000/- as the depositor has his own signature appearing in the SB-7 voucher.

The S.P.Os. gave the following reasons for differing with the I.O. findings who declare the article of charge as not proved.

- (1) That the SW-1 Sri B. Pugushotham stated that he did not remember the person in the counter whether male or female person.

(contd., p.6)

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(2) That the SW-1 did not remember whether the SW-7 was written by him or by some other person.

(3) That the date stamp impression on SB-7 voucher and the date noted by the depositor was 12.12.91 whereas in the Pass Book S.E.-3A the date of transaction was noted as 18.12.91.

(4) That the SW-3 B. Munichandravali Bai told that she received withdrawal form SE-4 only and has not remembered whether she paid the amount to the depositor who was not present at the counter.

(5) That the charged official was not examined by the I.O. on the above points.

The charged official submits that B. Purushotham, SW-1 in his revised deposition dated 13.8.96 clearly accepted that he received the amount of withdrawal of Rs. 33,000/- across the counter. Thus the charge levelled against the charged official on the basis of statement given by SW-1 on 16.2.93 (w SE-6) which was disowned by SW-1 during the inquiry was not proved. Further the SW-1 accepted the signatures on the SB-7 (SE-2) as that of his own and had accepted the receipt of amount across the counter. Here it is important note that the SE-2 which is not disputed by C.O. and P.O. is a vital document and a voucher having evidential value. The S.P.M. has got discretion to accept the depositor's signature when they differ negligibly and to allowed withdrawal. Moreover the depositor is a Police Constable and well known person to the staff including the S.P.M. Hence the charged official was right in putting his initials on SB-7 voucher (SE-2) in token of having carried out verification. Hence the allegations levelled against the charged official are baseless and liable to be dropped. In addition to the above, the charged official submits that the SW-3 deposed that the depositor SW-1 was not seen at the counter only but not in the office. There is no hard and fast that the SB-7 vouchers must be filled in by the depositors only. As a long period had lapsed from the date of incident to the date of deposition on 13.8.96 the SW-1 naturally not remembered the person who worked in the counter. When the SW-3 checked the SB-withdrawal form and specimen signature and passed the withdrawal and paid the amount across

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the counter. This itself shows that the withdrawal is genuine one and the SW-1 was present in the office in person. As already stated in detail in Article-II, the entries of Pass Book as well as in the S.B.Ledger were made by the charged official in good faith, as the SW-3 forgot to do the same. This proves that the Pass Book was also presented by the Depositor and the reasons put forth by the S.P.Os.Kurnool, proved to be incorrect. The Depositor himself accepted the receipt of withdrawal on 12.12.91 by recognising the signature for the acquittance given on the SE-2 and as such the question of payment of the amount under reference on 18.12.91 does not arise.

Further the reasons given above by the S.P.Os. differing in with the I.O.findings, it is seen that the S.P.Os. never declared the SE-2 was either a disputed one or a fictitious one. All the persons SW-1, SW-2, SW-3 and the presenting officer did not raise any argument or doubt regarding genuineness of the SB-7 voucher (SE-2). SW-3 S.B.P.A.accepted that she passed the voucher and the same must be taken as genuine one. The charged official is no way connected to the corrections appearing in the date, in the Pass Book (SE-3-A), Hence the I.O.was right in declaring the allegations in the Article-III as not proved. The S.P.Os.is requested to re-consider the matter and cause issue of necessary orders dropping the charges made in Article-III also.

In case the requests for dropping the charges levelled in the charge-sheet are not accepted, finally the S.P.Os.is requested to differ the final decision to finalise the proceedings sign-die on the following reasons:

- (1) That the charge sheet was filed by the Department in Cr.No.136/92 in the First Class Magistrate Court, Dhone.
- (2) That an O.S.No.130/92 was filed and pending before the Court of Addl.Subordinate Judge, Kurnool.
- (3) That the allegations in the domestic inquiry as well as the allegations levelled in criminal and civil court cases are similar and the list of witnesses in all the above cases are one and the same.

(contd..p.8)

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The last and important points for consideration is that the present disciplinary authority, Sri K. Chandra-sekhar, Superintendent of Post-Offices, Kurnool was already expressed his pre-determined views on the allegations of the charge sheet before the Addl. Subordinate Judge, Kurnool by giving his evidence on 10-12-96. Due to these points, much prejudice will be caused to the charged official and hence the disciplinary authority is requested to defer the finalisation of the case till the judgements in the above civil and criminal cases are received.

Thanking you,

Yours faithfully,

Place: Hyderabad

Dated: 24-3-1997.

L. Balaiyah 24/3/97
(L. BALAIYAH)

T.C
Ranbir Deo
Counsel for the
Appellant

(97)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO. 1227/97

DATE OF ORDER : 18-09-1997.

Between :-

L.Balaiah

... Applicant

And

Union of India / esp. by

1. The Chief Post Master General,
Andhra Pradesh Postal Circle,
Hyderabad.
2. The Director of Postal Services,
Office of the Post Master General,
Kurnool Region, Kurnool.
3. The Superintendent of Post Offices,
Kurnool Postal Division, Kurnool.

... Respondents

-- -- --

Counsel for the Applicant : Shri K.S.R.Anjaneyulu

Counsel for the Respondents : Shri U.Vinod Kumar. CGSC

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CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri B.S.Jai Parameshwar, Member (J)).

-- -- --

... 2.

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(Order per Hon'ble Shri B.S. Sei Parameshwar, Member-(J)).

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Heard Sri K.S.R.Ajaneyulu, counsel for the applicant and Sri V.Rajeshwar Rao for the respondents.

2. On 19-12-96 the applicant while working as Superintendent of Post Office, Dhone Sub Office was served with Articles of Charges relating to certain financial irregularities. The applicant denied the charges. A detailed enquiry was conducted by the Enquiry Officer on 21-7-97. The Enquiry Officer submitted his report. In his report the Enquiry Officer formed opinion that Articles 1 and 3 were not proved and Article-2 was partly proved and partly not proved.
3. The applicant submitted representation against the report of the Enquiry Officer.
4. Considering the findings recorded by the Enquiry Officer and also representation of the applicant, the Director of Postal Services dis-agreeing with the report of the Enquiry Officer imposed the penalty of removal from service on the applicant.
5. The applicant has filed this O.A. challenging the impugned order dt.29-8-97 passed by the Director of Postal Services. Sri K.S.R.Ajaneyulu, counsel for the applicant during the course of admission hearing contended that the Director of Postal Services would not have imposed the penalty of dismissal and that the only Superintendent of Post Offices according to the Statutory Rules is competent to issue that order.

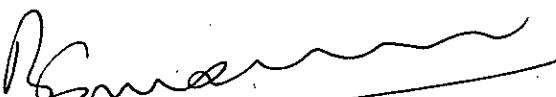
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6. We are not entering into discussion as to the competency of the Director of Postal Services to pass the impugned order. The applicant has not exhausted the remedy available to him by preferring the appeal against the impugned order. Hence the applicant if so advised, may prefer an appeal taking that factum also as one of the grounds to the next higher authority than the Director of Postal Services. Hence we issue the following directions :-

(a) The applicant is so advised, may submit a memorandum of appeal to the competent higher authority than the Director of Postal Services within the statutory period provided for submission of appeal;

(b) In case such an appeal is received, the competent appellate authority shall dispose of the same without going into the question of limitation. In case the applicant desires personal hearing, the appropriate appellate authority shall grant the same.

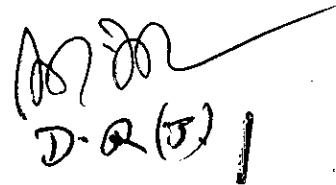
7. With the above directions, the O.A. is disposed of at the admission stage itself. No order as to costs.


(B.S.JAI PARAMESHWAR)

Member (J)
18.9.97


(R.RANGARAJAN)

Member (A)


D.R.(J)

Dated: 18th September, 1997.
Dictated in Open Court.

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Copy to:-

1. The Chief Post Master General , A.P. Postal Circle, Hyderabad.
2. The Director of Postal Services, Also The Post Master General, Kurnool Region Kurnool.
3. The Superintendent of post Offices, Kurnool Postal Divn. Kurnool.
4. One copy to Mr. K.S.R. Anjaneeyuly. Advocate CAT. HYD.
5. One copy to Mr. V. Vinod Kumar. Addl . CGSC. CAT. HYD.
6. One Copy to The Hon'ble Sri B.S.Jai Parameshwar, M(J).CAT.HYD.
7. One Copy to The D.R(A).
8. One Duplicate Copy.

Upr.

Off
Recd at
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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R.RANGRAJAN : M(A)

AND

THE HON'BLE SHRI B.S.JAI PARAMESHWAR :
M (J)

Dated: 18.9.87

ORDER/JUDGMENT

M.A/R.A/C.A.NO.

in

O.A.NO. 1227/97

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

YLKR

II Court

