

FORM . NO. 21.

(See. Rule.114.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH. HYDERABAD.

O.A. No.

12511

1997

B. L. Rao

Applicant(s)

Versus

Sd/- of P.O.s, Subd 4

Respondent

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24/3/99  
Signature of dealing Head  
(in Record Section)

22/7/99  
Signature of S.O.

170 117

7/9/99.

DA-1281/97

DATE

OFFICE NOTE

ORDER

20/8/99,

MA. 673/99 is disposed of.

Order in the MA sheet - No cost.

DL

DL

HOSP  
MOS

HOSP  
MOS

C.C. by Monday,

avl,

- 2 -  
OA-125199

Date

Office Note

ORDER

2-3-99

At the request of the applicant's  
counsel, list on 8-3-99.

*R*  
HBSTP  
M(5)

*N*  
HRRN  
M(8)

8-3-99

Post this O.A. tomorrow

HBSTP  
M(5)

HRRN  
M(8)

*Day*

9/3/99

OA is ordered with  
no cost-side orders on  
separate sheet.

*R*  
HBSTP  
M(5)

*N*  
HRRN  
M(8)

8-7-99

MA 506/99 is disposed of.  
Order side MA sheet. No costs.

*R*  
HBSTP  
M(5)

*N*  
HRRN  
M(8)

Central Administrative Tribunal Hyderabad Bench: Hyderabad.

O.A.No. 1251 of 1997.

B. Laxmana Rao. Applicants(s).

V E R S U S.

Pr. supt. of Post offices,  
Secunderabad & ors.

(Respondents).

Date	Office Note	ORDER
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24.9.97

Mr. S. Rama Krishna Rao, for  
the applicant and Mr W. Satya-  
narayana for Mr. NR. Derraj,

17/10/98  
OSN

Before Dy. Regr.

None Present, notice  
served on all Respon-  
dents. Call on 21/4/98  
for memo and reply.  
for the respondent.

Admit. Expedite.

M. N.  
Dy. Regr.

He  
HBSJP  
R.D.

He  
HBSJP  
R.D.

21-4-98

None Present.  
Reply is filed.  
Call on 5-5-98  
for rejoinder.

8/11/99

List this OA on 27/11/99 at the  
request of the Respondents Counsel.

M. N.  
D.R.

He  
HBSJP  
m(s)

He  
HBSJP  
m(s)

Admit  
1/10/97  
OSN  
7/10/97

5/2/99

None for the Applicant. List it  
for dismissal on 8/2/99.

He  
HBSJP  
m(s)

He  
HBSJP  
m(s)

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: SECHHYDERABAD.

ORIGINAL APPLICATION NO. 129 OF 1997.

B. Lakshmana Rao

(Applicants(sS))

VERSUS

Union of India, Repd., By.

ex Supdt of P.W.D. as, Secunderabad

A 307

Respondent(sS(S))

The Application has been Submitted to the Tribunal by Shri  
Shri S. Ramakrishna Rao 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  
No.-----

Scrutined & set.  
12/9/97.

Amal  
DEPUTY REGISTRAR(JUDL).

19. Is the application accompanied IPO/DD, for Rs.50/-? *Yes*
- 10.
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 envelopes (file six) bearing full addresses of the respondents been filed. *Yes*
16. (a) Whether the relief sought form arise out of single cause of action. *Yes*  
(b) Whether any interim relief is prayed for. *Yes*
17. In case an Ma for commutation of delay in filed, it supported by an affidavit of the applicant. *Yes*
18. Whether it is cause ben heard by a single bench. *No*
19. Any other points. *—*
20. Result of the scrutiny with initial of the scrutiny clerk. *Maybe numbered pls*

*S. M. S. 197*  
Scrutiny Assistant.

Section Officer.

Deputy Registrar.

Registrar.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

Dairy No.

2589/97

Report in the Scrutiny of Application.

Presented by Bh. S. Ramakrishna Rao Adv Date of presentation.

18.9.97

Applicant(s) B. Lakshmana Rao

Respondent(s) Sr. Supdt & P.R. Officer, Secunderabad 4300

Nature of grievance Dismissal.

No. of Applicants 1 No. of Respondents 4

CLASSIFICATION.

Subject... Dismissal (9/91) No. (1) Department Postal (NO) 1/14

1. Is the application in the proper form, (three complete sets in paper books form in the two complitions). 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, duly attested legible copy been filed. Yes

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH, HYDERABAD

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O.A. NO. 1251 OF 1997.

CAUSE TITLE

B. Lakshmana Rao.

V. S. S. U. S.

Sr. Supdt. of Post offices,  
Sec'bad L. A. O.

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7. Reply statement filed by Mr. N.V. Ramesh Reddy on 24/3/98

8. Reply statement filed by Mr. S. Ramesh Krishna Rao on 29/3/98.



To ~~cancel~~ direct the respondents to reinstate the applicant  
into service with all consequential benefits by setting aside  
the impugned order dt 18.7.88 and appellate order 3  
dt 27.2.90.

:PAGE NO. 15 :

*Barish*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT: HYDERABAD.

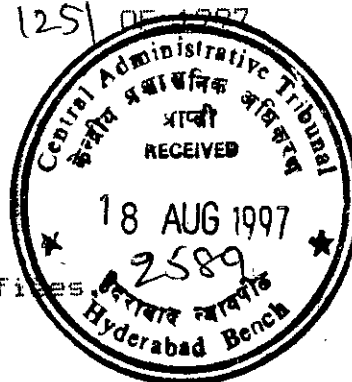
O.A. NO: 1251 OF 1997

BETWEEN:

B. Lakshmana Rao

A N D

Sr. Superintendent of Post Offices  
Secunderabad and others.



*Dismissed (1) A1.*

*Postal (11).*  
APPLICANT

*पोस्टल/POSTAL*

RESPONDENTS

### CHRONOLOGICAL STATEMENT OF EVENTS

Sl.No:	Date:	E V E N T S
1.	1968	The applicant was appointed as a Postal Asst. in Sriakulam Division and was transferred to Nizamabad Division instead of Hyderabad which is applicant's choice.
2.	1975	The applicant was transferred to Hyderabad city and was posted at Tandur as Signaller and discharging his duties satisfactorily and again got transfer to Medchal as SPM, Medchal and further he was transferred to Ghatkesar and again he was transferred to Sec'bad HO.
3.	19.12.96	The applicant was issued with charge memo for not accounting for the deposit of two different amounts.
4.	18.7.88	The applicant has been dismissed from service by the IInd Respondent and on the same day the applicant had appealed to the IInd Respondent. But there was no response from the Respondent.
5.	4.4.95	After acquitted in the Criminal Court the applicant submitted a petition to the Member Personnel. But the petitioner was rejected.

As such the applicant has no other alternative except to approach this Hon'ble Tribunal, had filed this application before the Hon'ble Tribunal.

Hyderabad  
20.5.1997

*[Signature]*  
COUNSEL FOR THE APPLICANT.

RECEIVED COPY

*N* N R. Devaraj  
Sr. CCSC

Allotted to:

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APPLICATION FILED UNDER SECTION 19 OF ADMINISTRATIVE TRIBUNALS  
ACT, 1985.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

O.A. NO: 1251 OF 1997

BETWEEN:

B. Lakshmana Rao

APPLICANT

A N D

Sr. Superintendent of Post Offices,  
Secunderabad.and others.

RESPONDENTS

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4.	Lr.No.STA/13-1/1/89 dt.21.2.90 of IIIrd RespondentIII		25 to 26
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Hyderabad  
20.5.1997

SIGNATURE OF THE APPLICANT

COUNSEL FOR THE APPLICANT.

FOR USE IN TRIBUNAL'S OFFICE:  
Date of Receipt:  
Registration No.

Signature  
for Registrar.

contd.....

:PAGE NO. 1 :

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT: HYDERABAD

O.A. No. 25 of 1997

BETWEEN:

B. Lakshmana Rao, S/o.B. Baliah,  
aged about 48 years, Occ: Ex.SPM Medchal,  
R/o.6-7-57/42, Bansilalpet, Secunderabad

APPLICANT

A N D

1. Sr. Superintendent of Post Offices,  
Secunderabad.
2. Director, Postal Services,  
AP Northern Region, Hyderabad.
3. The Chief Post Master General,  
A.P. Circle, Hyderabad.
4. Director General,  
Dept. of Posts and Secretary,  
Dept. of Posts, New Delhi.

RESPONDENTS

DETAILS OF THE APPLICANT:

Address for service of summons/  
notices on the applicant: SANKA RAMA KRISHNA RAO  
ADVOCATE, 1-8-539/C,  
II Floor, Chikkadpally,  
HYDERABAD.20.

1. Particulars of the order against which the application  
is made:

"This application is against the impugned order  
No.RDH/ST/20-5/188 dated 18-7-1988 issued by the IInd Respondent  
while dismissing the applicant."

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the  
order against which he wants redressal is within the jurisdiction  
of the Tribunal u/s.14(1)(b)(ii) of the Administrative Tribunals  
Act, 1985.

3. LIMITATION:

The applicant further declares that the application is  
within the limitation period prescribed in Section 21(1)(a) of  
the Administrative Tribunals Act, 1985. As the High Court of A.P. acquitted  
the applicant from the sentence, vide  
order dated 27-2-1997, H.O.A's B. Lakshmana Rao  
within the limitation.

4. FACTS OF THE CASE:

(1) The applicant humbly submits that he was recruited as a postal assistant in Srikakulam Division in the year 1968. He belongs to SC community and while working at Srikakulam, he was unable to support his parents who were at Hyderabad with the meagre pay of Postal Assistant. He, therefore, applied for a transfer to Hyderabad City which is his native place and as no vacancy was available he was transferred under Rule 38 to Nizamabad Division. Accordingly, he joined as Postal Assistant at Sangareddy in the year 1969, but then out of compulsion, the applicant again tried for a transfer to the city since his liabilities were to be discharged in the city. After much struggle the applicant got a transfer to Hyderabad City in the year 1975 and he was posted at Tandur as a Signaller where he struggled himself hard. The applicant suffered for about six years at Tandur about 180 kms away from his native place, but even then inspite of his problems he discharged his duties to the entire satisfaction of his superiors. After about six years service at Tandur the applicant got a transfer, to Medchal and he worked as Senior Post Master, Medchal for another six years. During all these long years nothing was found against the applicant and then when the applicant was transferred to Ghatkesar where he worked with utmost satisfaction for about two months but then he was transferred to Secunderabad HO and while working as such he was issued with charge Memo vide No.F4/2/86-87 dated 19-12-1986 (copy of the charge sheet lost).

(2) The allegation against the applicant was that while he was working as SPM Medchal he did not account for the deposit of Rs.4500/- in account No.375763 and that the withdrawal of

contd. *B. Lakshmaiah*

Rs.1,000/- dated 16-8-1986 also was not accounted for. It was alleged that the applicant failed to provide credit of Rs.6,400/- towards NSC collections. In the inquiry nothing was proved against the applicant and he had credited all the real or presumed loss. Medchal being a double handed office there are clear rules that the Sr.Post Master cannot do SB/NSC PA's work and the PA alone was attending to SB/NSC work. In the applicant's case he was only Sub Post Master and the SB and NSC transaction were not done by him and there is no ground to punish him for something which is the duty of the PA. The charge No.2 about non-credit of Rs.6,400/- suffers infirmity since the applicant was not the PA, who received the amount from the public and no record of handing over the amount to him was produced.

(3) It is humbly submitted that the inquiry was not held as per rules. The applicant was not given opportunity to have his own selected defence assistant. The petitioner was anxious to attend every sitting but he had no information about the sittings as inquiry was not held as per rule 63 of P&T Manual Vol.III by issuing notice at every stage. Further more, the applicant was facing a criminal case for the same charges. Under Article 20(3) of the Constitution of India he had the protection of not pleading guilty or not guilty. But, without caring to these pleas the ID held that the charge is proved (Annexure II) and on that basis, the DPS issued orders dismissing the applicant from service (Annex.III).

(4) The applicant humbly submits that Medchal Post Office is manned by two clerical officials one the SPM and another the clerk (PA). As per the rules of the Postal Department in a double handed office like Medchal the SPM is barred to attend to

contd.....  
B. Arman Rao

:PAGE NO. 4 :

the counter duties of the Postal Assistant regarding SB and NSCs. The applicant was scrupulously following the departmental rules and instructions which means he was not responsible if there was any fraud in SB or NSC. Unless it was proved that the amount was handed over to the applicant. It is also humbly submitted that if the PA has committed any fraud he should be proceeded against and if the fraud is with the collaboration of the applicant both should have been proceeded against under rule 18 but in the applicant's case the PA who accepted the deposits and gave the withdrawals is not questioned, his complicity in issue of the NSCs is not questioned and the applicant alone was issued with acquittal Charge Memo inspite of the fact that the duty of SB and NSC were that of the PA. In fact the applicant was prosecuted but acquitted for the offence and the main ground for acquittal of the applicant from Criminal Case was that the SB and NSC work was of the PA and not that of the applicant. The department did not take cognizance of this but punished the applicant even before the criminal court pronounced the judgement.

(5) During the inquiry there was no evidence from the investor of the NSC. On the other hand the PA who handled the transaction did not appear as a witness and therefore the presumption that the applicant was responsible for not accounting the deposit or investment is groundless. The DPS AP Northern Region dismissed the applicant from service vide his No.RDH/ST/20-5/1/88 dated 18-7-1988 (Annex.- ) without considering the relevant points. In fact the amount is collected at the counter by the PA and the SPM cannot be held responsible for the amounts, alleged to have been collected, by the PA, unless it is proved that the applicant collected it. The applicant submitted an appeal against his dismissal order on 18-7-1988 by

*B. Laxman Rao*  
contd.....

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the IInd Respondent but the same was rejected (Annexure-IV). Meanwhile he was honourably acquitted by the criminal court and he submitted a petition to the Member Personnel on 4-4-1995. But this petition was rejected (Annexure-V) without a speaking order though the departmental charge and criminal case dealt with on the same allegation. It is humbly submitted that the departmental authorities cannot re-appraise the evidence and where the judicial authority found the applicant innocent the departmental authority could not have imposed any penalty. Unfortunately in the applicant's case the judicial authority did not find him at fault vide judgement of the 1st Class Magistrate Medchal and the Hon'ble High Court (Ann.VI & VII). By appraisal of the same evidence the departmental authorities dismissed him from service which is not covered by law and evidence.

Aggrieved against, the dismissal of the applicant, he has no other alternative except to approach this Hon'ble Tribunal seeking redressal of his grievance and hence filed this O.A.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

(1) It is humbly submitted that the departmental allegation against the applicant was about some SB transactions and NSC credit. For the same offenses the applicant was prosecuted and he was honorably acquitted. This happened when the old rule 80 and 81 of P&T Manual Vol.III were in force. But subsequently the said rules have been amended and the amended rule 80 of P&T Manual Vol.III was struck down by the Hon'ble CAT Bangalore referring to Supreme Court's observation in AIR 1965 SC 155 and AIR 1960 SC 806 holding that the amended Rule 80 does not help. In the applicant's case there was an allegation of misappropriation

contd.....

B. Laxman Rao

tion in the departmental charge sheet which was also the subject matter in the criminal case foisted against him and a judicial authority like First Class Magistrate Medchal acquitted him and the department went on appeal to the High Court where too the applicant was honorably acquitted. This means the applicant was not found at fault for criminal misappropriation, and so the punishment is liable to be set aside.

(2) The applicant further submits that the departmental inquiry against him was a farce in-as-much-as the very official entrusted with SB and NSC branch of Medchal SO was not produced as a witness. If any fraud is to be committed at Medchal a double handed office for the SB and NSC transactions could not have been done by the SPM without the involvement of the PA but then the department found it expedient to dismiss the applicant without even making the SB/NSC PA as a witness and subjecting him to cross-examination. It is humbly submitted that if as decided by the department there was fraud in NSC/SB at Medchal SO the primary offender would have been the PA and the applicant could be at best an abettor. The Hon'ble Supreme Court vide ATR 1990 (1) SC 297 held that the charge of abetment fails if substantive offense against the principle offender is not established. In the applicant's case the principle offender was totally protected even from appearing as a witness.

(3) It is humbly submitted that the departmental charge Memo and the criminal charge sheet were for one and same offense apart from being for identical offense and the applicant was exonerated of the criminal charge which means the department could not have punished him as the department is barred from re-appraising the evidence considered by the judicial authority.

contd.....

B. Caxmau Rao



(4) After acquittal by the criminal court the applicant submitted a petition to Member (P) but the same was rejected arbitrarily inspite of the applicant's pleading that the department cannot re-appraise the evidence and come to a different decision other than of the judicial authority. It is a case where the department not only dismissed the applicant but his appeal also was rejected inspite of but the finding of the judicial authority for the same alleged offense was that the applicant was not at fault. Hence the punishment imposed by the department is liable to be set aside.

(5) The applicant humbly submits that he belongs to the most oppressed class i.e. SC. Though he belongs to Hyderabad he joined service at Srikakulam as he was greatly in need of some resources to maintain his family. It is only after seven years service outside the city that he could get a transfer to Secunderabad Division but then, he was posted to Tandur which is far away from the city. After six years of unblemished service there, he was posted to Medchal at the outskirts of the city. His condition of poverty and responsibility to bring up five children forced him to forego the monetary benefits like HRA and CCA and join at Medchal. Even at Medchal he performed his duties with utmost devotion and sincerity, since he is an honest official and had no other source of livelihood. Even from Medchal he was transferred to Ghatkesar another outskirt town without HRA and CCA facility at that time. During the two months service at Ghatkesar also there was nothing against the applicant. But then to book him for some mistake done by his PA at Medchal and protect the PA by not producing him as a witness is beyond the reach of equity and the department has taken

contd.....

*B. Lakshminarayana*

advantage of his being SC and the innocence associated with the SCs. In fact the applicant has not committed any irregularity but he was not given reasonable opportunity of defence and in defiance of judicial appraisal of the evidence he was dismissed which calls for reappraisal, reassessment and a revised decision.

Therefore, it is just and proper that Hon'ble Tribunal may be pleased to set aside the Impugned Order dated 18.7.1988 imposing punishment of dismissal of the applicant from service duly directing the II Respondent to reinstate him into service with all the consequential benefits.

**6. DETAILS OF THE REMEDIES EXHAUSTED:**

The applicant declares that he has availed all the remedies available to her under the relevant service rules.

Aggrieved against the dismissal of the applicant by the IInd Respondent, the applicant preferred an Appeal on 18.7.1988 to the IIIrd Respondent which was rejected by him on 27.2.1990. In the meantime, the criminal case was proceeded against the applicant before the Judicial Magistrate of Ist Class at Medchal, which was disposed of on 16.1.1995 acquitting the applicant honourably. On acquittal from the criminal charge the applicant submitted a petition No.(P) Postal Services Board, New Delhi, which was rejected on the ground of delayed petition vide order dated 22.9.1995. Added to this the Department carried a criminal case to the Hon'ble High Court of A.P. in Criminal Appeal No.697/95 which was decided on 7.2.1997, confirming the acquittal order of the Lower Court. When the departmental authorities are not acceding to the requests of the applicant for reinstatement in view of the acquittal by the criminal court as well as the

*B. J. Ramana Rao*  
B. J. Ramana Rao

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High Court, the applicant has no other alternative except to approach this Hon'ble Tribunal.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

The applicant further declares that he has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any other court or any other authority or any other Bench of this Tribunal, nor any such application, Writ Petition, or suit is pending before any of them.

8. RELIEF(S) SOUGHT:

In view of the facts mentioned in para (4) above, the applicant pray for the following relief(s):

It is respectfully prayed that the Hon'ble Tribunal may be pleased to;

(a) to set aside the punishment imposed by the IInd Respondent vide No.RDH/ST/20-5/188 dated 18-7-1988 dismissing the applicant from service, as confirmed by the IIIrd Respondent vide appellate order No.STA/13-1/1/89 dated 27.2.1990, declaring the same as arbitrary illegal, unwarranted, frivolous and in violation of Articles 14 and 16 of the Constitution;

(b) to direct the Respondents to reinstate the applicant into service with all the consequential benefits;

and be pleased to pass such other and further order or orders as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

3 contd. *Ammau*

9. INTERIM ORDERS IF ANY PRAYED FOR:

Pending final decision on the application the applicants seek the following interim relief:

It is humbly prayed that this Hon'ble Tribunal may be pleased to direct the Respondent to treat the applicant under deemed suspension pending disposal of the OA and be pleased to pass such other order or orders as the Hon'ble Tribunal may deem fit and necessary in the circumstances of the case.

10. NOT APPLICABLE:

11. PARTICULARS OF THE BANK DRAFT/POSTAL ORDER filed in respect of the application fee:

1. D.D./P.O. No. 812 679586  
2. Date: 18-8-97  
3. Fee: Rs.50/-  
4. Name of the office of issue: Amount Rs  
5. Name of the office payable at: G. R. S. S. A

12. LIST OF ENCLOSURES:

Sl.No. Details of the documents

Annexure

AS PER INDEX

VERIFICATION

I, B. Lakshmana Rao, S/o.B. Baliah, aged about 48 years, Occ: Ex.SPM Medchal, R/o.6-7-57/42, Bansilalpet, Secunderabad), and Ex. SPM Medchal, Secunderabad, do hereby verify that the contents of paras 1 to 4 and 6 to 12 are true to the best of our knowledge and belief and para 5 believed to be true on legal advice.

Hyderabad.

Date:20.05.1997

*B. Lakshmana Rao*  
SIGNATURE OF THE APPLICANT

*[Signature]*  
COUNSEL FOR THE APPLICANT.

contd.....

Article - I

That Sri. B. Laxman Rao while working as SPM, Medchal S.O. acting himself as SB counter, P.A. received a deposit of Rs.4,500/- on 21.2.86 from the depositor of Medchal S.O. SB account No.375763 and exhibited the same in the Pass Book and S.O. SB ledger but did not credit the said amount of Rs.4,500/- in the P.O. accounts and had further similarly exhibited in the SB pass book of the same account a withdrawal of Rs.1,000/- against date 16.6.86 without incorporating the transaction in Post Office Accounts, in the manner laid down in Rules 424 (2) (ii) (a) 425(5), 433 of P&T Manual Volume VI Part II read with rules 673 of P&T Manual Volume VI, Part.III and also failed to act as per rules 4(1) read with rule 103 of FHB Volume I and thereby failed to maintain absolute integrity and acted in a manner unbecoming of a Government Servant and violated the Provisions of Rules 3(1) (i) and 3(1) (iii) of CCS (Conduct) Rules, 1964.

Article - II

Sri. B. Laxman Rao while working as SPM, Medchal during October'85 and July'86 failed to afford credits of the value of 64 6 Yr.NSCs of VI issue of Rs.100/- denomination of Value Rs.6,400/- deducted by him from the stock after making entries as 'issued' without noting dates contravening rules 673 of P&T Manual Volume VI Part III and rules 4(1) & 103 of P&T FHB Vol.I and further failed to render account of 6 Yr. NSCs.VI issue worth Rs.35,000/- received from Trimulgherry HO under invoice Nos. 7 dtd. 6.3.86, 1/86-87 dtd. 5.5.86 and 1/86-87 dtd.5.5.86, contravening rule 531(1) of P&T Manual Volume VI Part II. He also failed to make over the certificates of total worth Rs.41,400/- to his successor Sri. G. Lakshminarayana on 25.7.86 F/N nor accounted for them in any other way while handing over charge. It is alleged that Sri. B. Laxman Rao by his above acts exhibited conduct lacking in absolute integrity and thus acted in a manner unbecoming of a Government servant violating the provisions of Rules 3(1) (i) and 3(1) (iii) of CCS (Conduct) Rules, 1964.

4. The Inquiry Officer commenced his inquiry with the first sitting held on 31.3.87. He continued the inquiry on 13.4.87, 29.6.87, 13.7.87, 4.11.87, 4.12.87 under intimation to the Suspected Public Servant. The dates of every sitting of the inquiry were communicated to the Suspected Public Servant and he was asked to attend the inquiry with his Asst. Government Servant for the purpose of perusal of documents and statements connected with the charges and also to furnish list of witnesses on his behalf and additional documents required by him for the purpose of his defence. The Suspected Public Servant was in receipt of all the communications of inquiry, sent by the Inquiry Officer but did not attend the inquiry. The Inquiry Officer, finding that there was no response from the Suspected Public Servant carried out the 'exparte' proceedings of the inquiry as required under Rule 14 (20) of the CCS (CCA) Rules, 1965, on 21.1.88, 2.2.88, 3.2.88, 4.2.88, 5.2.88 and 26.2.88 and completed the inquiry. In his inquiry report dtd.22.4.88, the Inquiry Officer held the two articles of charge against the Suspected Public Servant as - 'Proved'.

K AI

(11)

DEPARTMENT OF POSTS - INDIA  
Office of the Director of Postal Services  
A.P. Northern Region, Hyderabad-500 001

20-7-88

...

Memo.No. RDH/ST/20-5/1/88 dated at Hyd, 500 001 the 18-7-88

Read the following:

1. Memo.No. F4/2/86-87 dtd. 19.12.86 of Sr. Supdt. of Post Offices, Secunderabad division.
  2. Memo.No. F4/2/86-87 dtd. 25.2.87 of SSPOs Secunderabad Division.
  3. Inquiry report.
  4. Other connected records.
- ...

This is a Disciplinary case initiated under Rule 14 of the CCS (CCA) Rules, 1965 by the Sr. Supdt. of Post Offices, Secunderabad division against Sri. B. Lakshmana Rao, LSG P.A. under suspension, Secunderabad H.O. having come up before the undersigned for issue of final proceedings. The following orders are passed:

2. Sri. B. Lakshmana Rao, LSG P.A. (under suspension) Secunderabad H.O. hereinafter referred to as Suspected Public Servant was served with a memo.No. F4/2/86-87 dtd. 19.12.86 by the Sr. Supdt. of Post Offices, Secunderabad division proposing an inquiry under Rule 14 of the CCS (CCA) Rules, 1965, into the charges detailed in annexure I to the above said memo. and he was called upon to submit his written statement of defence in respect of the charges vide annexure I to the memo. This memo. was received by Suspected Public Servant on 5.1.87. As there was no response from the Suspected Public Servant till 5.2.87, inspite of extension of time given at his request for submission of such a statement, the Sr. Supdt. of Post Offices, Secunderabad division appointed Sri. D. Satyanarayana Rao, Asst. Supdt. of Post Offices (Complaints) O/o. the Director of Postal Services, A.P. Northern Region, Hyderabad as Inquiry Officer to inquire into the charges against the Suspected Public Servant vide Memo.No. F4/2/86-87 dtd. 25.2.87. Sri. B. Nagiah, A.S.P. (Hqrs.) O/o. the Sr. Supdt. of Post Offices, Secunderabad division was appointed as the Presenting Officer by a separate memo. of the same date, to represent the Sr. Supdt. of Post Offices, Secunderabad in the inquiry.

3. The charges against Sri. B. Lakshmana Rao, the Suspected Public Servant are as under.

~~Article of Charge No. 1~~  
~~Article of Charge No. 2~~

~~(Represented by the Charge sheet)~~  
( -do- )

13/6

5. A copy of the report of the Inquiry Officer is enclosed to these proceedings.

6. I have carefully gone through the Inquiry Officer's report and all connected records. The Suspected Public Servant did not participate in the inquiry conducted by the Inquiry Officer though every sitting was duly notified to him and proceedings were posted to him from time to time. He was also called upon to send his brief after despatching copy of the brief submitted by the Presenting Officer which was received by him on 10.3.88. Evidently the Suspected Public Servant has no defence to offer against the articles of charge. The oral as well as documentary evidence adduced during the inquiry before the Inquiry Officer clearly established the articles of charge and I fully agree with the findings of the Inquiry Officer. The first charge related to non-accounting of the SB deposit of Rs.4,500/- on 21.2.86 and withdrawal of Rs.1,000/- on 16.6.86 in SB a/c.No. 375763. The second charge related mainly to the failure of the Suspected Public Servant to bring to account the money realised on sale of N.S.Cs worth Rs.6,400/- and also to account for 6 Yn. N.S.Cs VI Issue worth Rs.35,000/-. The two charges proved in the inquiry. I, therefore, hold that he is not a fit person to be continued in service and accordingly dismiss him from service.

*D. Kailasa Prasad*  
(D. KAILASA PRASAD)  
Director of Postal Services,  
A.P. Northern Region,  
Hyderabad-500 001

To  
Sri. B. Laxman Rao,  
L.S.G.P.A.  
Secunderabad H.O.  
through Sr. Supdt. of Post Offices, Secunderabad On.

*TC*

even afterwards. Meanwhile the representation given by the SPs on 13-4-87 to the IO was forwarded to the disciplinary authority and requested for orders whether to hold further enquiry or not. For this the SSP has returned the representation of the official to the undersigned with the information that the IO has to decide the case in the light of the latest rulings on the subject and no specific direction was given. The SPs was therefore requested to attend DO on 29-6-87, ~~thereafter~~ for enquiry, vide this office Lr. F/Rule/ 14 BLR Dt: 17-6-87. The SPs was given option to nominate AGs and to submit list of witnesses and to requisition for any additional documents. It was received by the SPs on 22-7-87. The Official did not attend the enquiry. It was decided to proceed exparte. The PO was then requested to produce the evidence by which he proposed to prove the articles of charge on 13-7-87 at DO, Secunderabad. Copy of daily docket dated 29-6-87 was posted to the official by regd. Post which was received by him on 7-7-87.

On 13-7-87 the P.O. produced the evidence of documents on which he relied to prove the charge. Copy of daily docket dated 13-7-87 was also sent to the SPs which was received by him on 18-7-87. In the docket it was recorded that the SPs may for the purpose of preparing his defence, inspect records, submit a list of witnesses to be examined on his behalf and give requisition for additional documents and to nominate an AGs if felt necessary fixing the date as 25-7-87. Further date of sitting was given as 14-8-87. Since no reply was received by him till 6-8-87, he was once again requested by the undersigned vide F/Rule 14/BLR Dt: 6-8-87 to intimate whether he proposed to nominate any AGs and if so the name and address of the AGs with permission and declaration etc., might be submitted to the undersigned by 14-8-87 i.e, the proposed date of next sitting. For this the SPs wrote a letter Dt: 13-8 which was received by the undersigned on 18-8-87 that his representation Dt: 31-3-87 was not disposed off and then only the case had to be proceeded further. The SPs was replied on 29-8-87 by the undersigned that in view of Dy. P & T Lr. No: 5-11-81-Vt Dt: 11-11-83 and letter No: 7-5/85-Vig.-I Dt: 16-4-86 from Sri B.D. Jury, Asst. Director General (Viag).

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Inquiry report of D.S. Rao, I.O. & ASP (C) O/O the DPS  
NR against Shri B. Laxman Rao LSG PA (under suspension),  
Secunderabad HO.

Sri B. Laxman Rao, LSG PA, Secunderabad, HO was proceeded against under Rule 14 of CCS(CCA) Rules 1965 by the SSPOs, Secunderabad Dn., vide SSP Memo No: 74/2/86-87 Dt: 19-12-86. The memo was received by the official on 5-1-87. The official requested continuously for 5 times extension of time for submitting his written statement of defence as a last extension till 12-3-87. The official was not granted extension of time beyond 5-2-87 as per SSP letter No: 74/2/86-87 Dt: -3-87. The official did not at all submit any written statement of defence. Under these circumstances, the SSPOs Secunderabad, Dn., has appointed the undersigned as IO vide SSPOs memo No: 74/2/86-87 Dt: 25-2-87 and Sri B. Nagaiah ASP (Hqrs) O/O the SSPOs as a P.O. vide SSP No: 74/2/86-87 Dt: 25-2-87. The undersigned has asked for the records vide this office F/Rule 14/BLR Dt: 27-2-87 and the same were received on 12-3-87.

The memo of charges framed against the official are enclosed. The undersigned held first sitting on 31-3-87 as required under Rule 14(7) of CCS (CCA) Rules 1965. The official received the memo of sitting of 25-3-87. The sitting was postponed to 13-4-87 instead of on 31-3-87 vide this office F/Rule 14/BLR Dt: 1-4-87. The sitting was held on 13-4-87. During the course of inquiry the official gave a representation Dt: 31-3-87 to the I.O. stating that since the case was given to the police, department inquiry need not be held and therefore, it should be postponed till the police enquiries were completed. In this connection, the SPs was asked whether he knew the contents of the complaint given to the Police by the disciplinary authority for which he stated that he did not know. He was therefore requested to know the contents of the Police complaint since the IO has to depend on the nature of the charged memo and that the IO would not have any connection with police inquiry if both the charges differ. For this the official was given time to produce the nature of complaint and contents of the complaint given to the Police before 20-5-87 by post and further decision would be intimated by the IO to the SPS. No communication was received from the SPs till 20-5-87 and

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Though notices were promptly received by the Govt. servant, he did not attend the enquiries and therefore the witnesses were examined exparte. In every memo the official was being warned that if he failed to attend the enquiry, it would be held exparte. Thus the examination of prosecution witnesses was over by 5-2-88. Every copy of deposition and daily docket of each date were sent to the Govt. servant by Regd. AD Post which were received by him promptly.

There, the Govt. servant was called up on to give oral evidence or written brief and for that viz. for examination of Govt. servant date was fixed as 19-2-88 vide F/Rule 14/BLR Dt: 5-2-88. The examination of Govt. servant was postponed to 26-2-88 vide F/Rule 14/BLR Dt: 15-2-88. Accordingly the sitting was held at Medchal on 15-2-88. The Govt. servant did not attend. Daily Docket Dt: 26-2-88 was also posted to him. The P.O. was given time to send his written brief by 15-3-88. P.O. submitted his written brief on 6-3-88. Copy of the P.O's brief was sent to the Govt. servant by Regd. AD Post on 8-3-88 and requested him for submission his brief by 25-3-88. This RL 3006 Dt: 9/3 was received by him on 10-3-88. So far no brief was received by him.

Evidence addressed during the course of enquiry:-

1. Sri Mohd. Hussain PW & ASP Secbad(N) was examined by the P.O. He deposed that while going through the SB ledger casually, he noticed a deposit of Rs. 4,500/- in the SB a/c. No: 375763 of Sri Shaik Hussain, that the date of deposit was not decipherable in the ledger. He contacted the depositor Sri Shaik Hussain and checked the SB PB and found deposit of Rs. 4,500/- on 21-2-86 and withdrawal of Rs. 1,000/- Dt: 16-6-86 without corresponding credit and debit in the SB long book, that he recorded the statement of on 4-9-86 of Mr. Shaik Hussain and the same has been got identified. He also deposed that verified the stock of cash certificates on the hand in the stock register Ex-Pl, 64 Certificates of Rs. 100/- Dn. was deducted without noting the date as sold by SPs, that he made a note of unsold Certificates physically found on verification and verified the same with reference to Trimulgherry HO. On verification at HO on 5-9-86, it was found that besides the discrepancy of 64 certificates of Rs. 100/- Dn. the following

.....5/-

Department of Posts, New Delhi, it was decided to continue the enquiry and he was warned that a final chance was given to him by that letter to nominate if necessary an AGs. It was informed that no telegram said to have been issued by him on 29-6-87 was received by the undersigned. The SPs requested on 9-9-87 for the copies of the letters referred to above. He was informed on 22-9-87 that he could copy the letters in the sitting to be held on 7-10-87 at D.O. Secunderabad and in that also he was requested to nominate any AGs.

Accordingly a sitting to be held on 7-10-87 was adjourned to 4-11-87 at 11-00 AM at DO Secunderabad. The sitting was held on 4-11-87 as scheduled. Meanwhile the official asked for copies of Dy. P & T letters quoted. As already informed he was permitted to copy the letters in the sitting Dt: 4-11-87. A sitting was held on 4-11-87 and the Official came and ~~informed~~ informed that he would not attend the sitting but he would copy the ruling. As it was informed that the ruling can be copied during sitting and when he did not attend the sitting, he is not eligible to copy it and if at all he wanted he could ask PO/disciplinary authority for copies of Dy. P & T letters. Then he went away without either attending the enquiry or asking the disc. authority for permission to copy the letters.

Then the next sitting was held on 4-12-87 after giving a notice on 24-11-87 which was received by him on 25-11-87. Sitting was held on 4-12-87 for examination of documents by the official. The ~~original~~ official did not attend and the enquiry was held exparte and the proceedings accordingly were drafted.

Meanwhile the SSPOs SD in Memo No: F4/2/86-87 Dt: 20-1/88 changed the P.O. Sri MB Ramulu OS II O/O the SSP SD DO was appointed in place of Sri B. Nagaiah ASP (Hqrs) o/o the SSP Secunderabad.

Then the examination of witnesses from prosecution side started. Sri Mohd. Hussain ASPOs SD (N) and Sri D.A. ~~Ha~~ Rahman Khan ASPOs ( R) PWs 1 & 2 were examined on 21-1-88 exparte as the Govt. Servant did not attend. Their deposition were recorded. The other prosecution witnesses were examined at Medchal SO on 2-2-88, 3-2-88 and 4-2-88. The prosecution last witness was examined on 5-2-88 at DO, Secunderabad.

....4/-

Certificates supplied by HQ were neither entered in the stock register nor found in stock on verification.

1) Rs. 1000/- Dn. NSE 14 119802-806 = 5 Nos.

Rs. 1,000/- Dn. E/23 636767-781 = 15

Rs. 5,000/- P/4 974404-406 = 3/8

The Govt. Servant acknowledged the receipt of above NSCs, that further enquiries on 8-9-86 at Hyd. the SPM while ~~examining~~ accepting the non credit of Rs. 4,500/- in the SB A/c. 375763 stated that he kept all the wanting certificates in the upper rack of steel Almirah at Medchal, that he forgot to account them and prepared to trace out them <sup>for</sup> he was proposed to be taken to Medchal. While going to Medchal along with the Govt. servant in Departmental Zeep he expressed near SD Rly Station his desire to give the information at his house Bansilalpur SD. Accordingly he was taken to his house, he ~~w~~ went inside his house and came back within minutes holding the packet in his hand and wanted the vehicle to go to DO. After reaching DO, the Govt. Servant opened the packet and produced 20 unissued NSC VI issue valuing 24,000/- along with 11 invoices (0/0) & 14 applications for purchase of NSCs worth Rs. 17,400/- He also produced relevant issue journals in triplicate excepting journals relating to 6 NSCs worth Rs. 11,000/- issued on 3-6-86 and the following were the ~~main~~ details.

(Наша страна является членом Организации Объединенных Наций и имеет право на участие в ее работе)

continued on p. 7A

Enclosure to be read in page 5 of the report.

1. M. Anji Reddy 200/- 2 100/- C/14 87000-601 729 Dt. not clear.
2. P. Ramulu 200/- 2 100/- C/14 877602-603 793 not dated
3. K. Harihara Sharma 200/- 2 100/- C/14 877604-605 794 "
4. T. Narayana Chary 200/- 2 100/- C/14 877606-607 795 "
5. K. Vidyavathi 200/- 2 100/- C/14 877608-609 796 "
6. P.S. Wesley 200/- 2 100/- C/14 877610-611 797 "
7. N. Purushottam 200/- 2 100/- C/14 878283-284 798 "
8. K. Duchi Reddy 200/- 2 100/- C/14 878285-286 799 "
9. C. Sudhakar Reddy 200/- 2 100/- C/14 878287-288 800 "
10. V. Inna Reddy 200/- 2 100/- C/14 878289-290 801 "
11. Mohd. Osman 200/- 2 100/- C/14 878291-292 802 "
12. I. Rajan Anthoni 200/- 2 100/- C/14 878293-294 803 "
13. Smt. N. Nagamani 200/- 2 100/- C/14 878295 to not bearing 878334 regn. No & Date.  
C/O 40
14. M. Saraswathi Devi 11000/- 1 1000/- E-4 119802 795 3-6-86  
2 5000/- F-4 974404-405

(Contd in page 6)

III. Sri Shaik Hussain depositor of SB PB 375763.

Sri Shaik Hussain the depositor of PB 375763 of Medchal deposited that he gave one statement before ASPOs (N) on 4-9-86 with regard to transactions in PB 375763. The statement was identified by him. The statement was also readover to him. Copies of entries in the the PB were shown to him and got identified. When the PB was taken by the SPs a receipt was granted to him and the same was ret'd. to the SPM afterwards. He stated that it was a fact that he gave Rs. 4,500/- for deposit in his PB on 21-2-86 and the PB entry was found in PB and withdrawal of Rs. 1,000/- on 16-6-86 was also taken the entry was also made. There was no cross examination as the Govt. servant did not attend.

IV. Sri K. Krishna Murthy HM ZPHS Aliabad, Medchal.

Sri K. Krishna Murthy was examined by the PO. He deposed that he had given a written statement on 13-9-86 before Sri Satyanarayana Sarma SB DO. Secunderabad. He had gone through the Statement given by him, identified it and accepted the contents to be true. He stated that he was authorised to draw the arrears of DA of teachers and invest in National Savings Certificates and accordingly the arrears of the following teachers were invested.

1.	Sri M. Anji Reddy	Rs. 200/-	Appln. No: 792
2.	" P. Ramulu	" 200/-	" 793
3.	" K.Harihara Sharma	" 200/-	" 794
4.	" T.Narayana Chary	" 200/-	" 795
5.	Smt K. Vidyavathi	" 200/-	" 796
6.	Sri P.S. Wesley	" 200/-	" 797
7.	Sri N. Purushotham	" 200/-	" 798
8.	Sri K. Buchi Reddy	" 200/-	" 799
9.	" C.Sudhakar Reddy	" 200/-	" 800
10.	" V.Innareddy	" 200/-	" 801
11.	" Mohd. Osman	" 200/-	" 802
12.	" I. Rajan Anthone	" 200/-	" 803

The applications from Regn. Nos 792 to 803 were shown to him and he identified them. The Certificates to the above investors were issued and sent. He could identify the certificates. They were sent to him through Swamy EDDA through whom the amounts were received. The above NSCs were sent to him 2 instalments to him. The NSCs were marked as Exp 21 to 42. The date written by Sri K. Krishna Murthy on 10-12- 85 in the statement Dt: 13-9-86 with regard to appln.

....8/-

Blank Certificates 1. One Certificate of Rs. 5,000/- Dn. bearing No: F 14 974406

2. 4 Certificates of Rs. 1,000/- Dn. bearing No: E /23 119803 to 119806.

3. 15 Certificates of Rs. 1,000/- Dn. bearing No: E/23 636767 to 636781.

The Govt. servant on questioning admitted that he had issued NSCs worth Rs. 17,400/- under his signature and ~~xxxx~~ received the cash as detailed below and that the amount was used for his private purpose without crediting.

1. Issued 11-10-85 Rs. 1,200/-
2. Issued on 6-11-85 Rs. 1,200/-
3. Issued Nov/Dec 85 Rs. 4,000/-
4. Issued on 6-3-86 Rs. 11,000/-  
Rs. 17,400/-

He deposited that he contacted Sri T. Swamy RDDA Medchal and recorded his statement on 15-6-86 (Exp 93) who started in the month of Oct/Nov. Sri K. Krishna Murthy handed over him a sum of Rs. 2,400/- along with 12 applications for purchase of NSCs of Rs. 200/- per applicant towards investment of DA arrears of teachers of ZPHS Aliabad. The Govt. servant issued 24 certificates of Rs. 100/- Dn each and handed over the same to Sri T. Swamy after 2 or 3 days but the amount was not credited into PO a/cs. There is no <sup>cross</sup>reexamination as the GS did not attend the enquiry.

*The balance in entry of P.O. that he went on 6-9-86 to Ghatkesar and recorded the statement of Sri BL Rao about alleged misappropriation of Rs. 4,500/- from SB PB 375763 standing at Medchal SO. The statement recorded by him from the Govt. servant is identified. He further deposited that the Govt. servant stated that he did not account for the amount of Rs. 4,500/- given to him by the depositor on 21-2-86 and that he utilised the said amount for his personal use.*

*3* The SPs also reported to have stated the depentry in the Ledger A/c. 375763 to HO for adding interest and handed over the PB to the depositor after obtaining SB 28 receipt back and affixed to O.C. the SP stated to have added that the PB was not sent to HO for adding interest. The copies of above <sup>two</sup> depositions along with daily docket Dt: 21-1-88 was sent to SPs vide RL 0590 Dt: 21-1-88 of PR Nagar which was received by him on 22-1-88. There is no cross exam as SPs did not attend.

....7/-

examination was over and there was no cross examination.

G. G. Laxminarayana SPM, Medchal on 4-2-88.

Sri G. Laxminarayana SPM Medchal was examined by the PO. He deposed that he took over charge of the following NSCs

6 Yr. VI Rs. 50/- Dn. 6 NS	B 073926 to 930	
	B 9 937563 to 582	25
" Rs. 100/- Dn. 6 NS/	C 678335 to 337	3
" VII issue 100/- Dn.	C 366076 to 080	5
" " 500/- Dn.	D 102076 to 080	5
" " 1000/- Dn.	E 107076 to 080	5
SSCs 500/- Dn.	A 122221 to 230	10
1000/- Dn.	B 021721 to 725	5.

He deposed that acquittance for 6 yr. VI and VII issues was given in the old stock register seized by the ASP, acquittance for SSCs is containing in the present register. He further deposed that the Govt. servant did not hand over any other thing (Certificates) other than noted above. In addition to the above the following 7 yr. II issue were also handed over to him the acquittance for which was given by him in the present register.

7 Yr. II Rs. 10/-	JA 7NS/A/AO	137779 to 780-2
10/-	JB 7NS/B/O	136879 to 880-2
100/-	JA 7NSAB	180659 to 660 -2
100/-	JB 7NS/B/O	477659 to 660 -2
		<u>8</u>

He deposed that he had not received NSCs of 6th issue invocied in Trimulgherry HO invocie No: 7 Dt: 6-3-86 and 1-86 -87 Dt: 5-5-86 for the Govt. servant while taking over charge from him on 25-7-86 F/N. Copies of both the depositions and daily docket Dt: 4-2-88 were posted to the Govt. servant RL No: 1178 Dt: 4-2-88.

9. Sri Satyanarayana Sarma SB DO Secunderabad presently working as ASP (Hqr) Adilabad.

Sri Satyanarayana Sarma was examined by the PO on 5-2-88. He deposed that he recorded statements of Sri K. Krishna Murthy HM ZPHS Aliabad Medchal, Smt. T. Nagamani and Smt. M. Saraswathi. He identified the statements recorded by him from the witnesses mentioned above. Copy of deposition and daily ~~statement~~ docket Dt: 5-2-88 were posted to the SPs by Regd. Letter No: 1859 Dt: 6-2-88 of Parisrama Bhavan SO.

....10/-



18:

of Sri N. Purushotham might be received as 10-12-83. (which was wrongly written). There was no cross examination as the SPs did not attend. Copies of the above 2 depositors recorded on 2-2-88 along with copy of daily docket was posted to the SPs vide RL No: ~~1114~~ Dt: 2/2 of Medchal SO.

5. Sri T. Swamy EDDA, Medchal:

Sri T. Swamy was examined by the PO. He deposed that he brought money from Sri K. Krishna Murthy along with NSC applications and the SPM gave him 12 NSCs in 2 instalments. His statement given on 15-9-86 before the ASPOs SD North was identified by him Exp. 93. He also identified the photostat copies of 12 NSCs which were handed over to Sri K. Krishna Murthy by him. There was no cross examination as the SPs did not attend.

6. Smt. N. Nagamani W/o Late Sreeramulu attender O/O the AD AH Medchal.

Smt. N. Nagamani deposed that she gave one statement on 13-9-86 before the SBDO SOD at Medchal with regard to purchase of NSCs worth Rs. 4,000/- She identified the Stt. Dt: 13-9-86 given by her. She deposed that she took assistance of Sri N. Nagamani Jr. Veterinary Officer, Veterinary hospital Medchal for filling up the form handing over Cash etc. Exp 43 to 82 NSCs 878295 to 878 334 were issued. The copies of Certificates were shown to her and got identified by her. Her application no. was noted as 804 Dt: 25-11-85. She could not say the exact date as she is illiterate. Exam was over and there was no cross exam as the Govt. Servant did not attend. Copies of depositions of Sri T. Swamy EDDA Smt. N. Nagamani along with copy of daily docket were sent to the Govt. servant by regd. post on 3-2-88 from Medchal.

7. Smt. Saraswathi Devi W/o Sri MVRD Prasad Sarma Transmission Asst. Telephone Exchange Medchal on 4-2-88.

Smt. M. Saraswathi was examined by the PO on 4-2-88. She deposed that she gave a statement on 13-9-86 before SDO Secunderabad with regard to purchase of NSCs for Rs. 11,000/- from Medchal PO on 3-6-86. She could identify her statement she could also identify the photostat copies of NSC s applications originally given to her. The following NSCs were stated to

			SO	Regn.
1. 6 NS/ E 14	119802	Dt: 3-6-86 for Rs. 1,000/-	Medchal	795
2. 6 NS/P 4	974405	Dt: 3-6-86 for Rs. 5,000/-	"	"
3. 6 NS/G 4	974404	Dt: 3-6-86 for Rs. 5,000/-	"	"

10.

: 10 :

Sri B. Laxman Rao SPs was proposed to be examined by the PO on 26-2-88. He did not attend and no deposition could be recorded. The PO was given time till 15-3-88 to present the ~~summary~~ brief. The brief received on 6-3-88 was sent to SPs by regd. P. Post No: 3006 Dt: 9-3-88. The time for receipt of defence brief was fixed as 25-3-88. The BL was received by the SPs on 10-3-88. So far no defence brief was received.

By the evidence adduced above, it is very d clearly proved

1. that the Govt. servant Sri B. Laxman Rao while working as SPM Medchal SO received a deposit of Rs. 4,500/- on 21-2-86 from the ~~xxx~~ depositor of Medchal SO SB A/c. No: 375763 and similarly withdrawal of Rs. 1,000/- in the same account on 16-6-86 though entered in the PB were not accounted for into PO a/cs. and 2. that he while working as SPM, Medchal during 10/85 and 7/86 failed to afford credits of value of 64 (6) yr. NSCs of VI issue of Rs. 100/- Dn. valuing Rs. 6,400/- deducted by him in the stock register and that he further failed to ~~re-~~ account of 6 year NSCs VI issue worth Rs. 35,000/- received from TMY HO under invoice No: 7 Dt: 6-3-86 1-86-87 Dt: 5-5-86 and 1-86-87 Dt: 5-5-86 and also he failed to make over the Certificates of total worth Rs. 41,400/- to his successor Sri G. Laxminarayan on 25/7/86 P/N not accounted for them in any other way while handing over charge.

Thus the two charges alleged against Sri B. Laxman Rao LSG PA SD HO (under suspension) vide SSPOs SD Memo No: F4/2/86-87 Dt: 19-12-86 stand proved beyond doubt.

Hyderabad-1.

1/- -4-1988.

(D.S. Rao)  
I.O and ASP (C)  
O/O the DPS AP NR Hyd-1.



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also mentioned here that in departmental proceedings, a charged officer is never compelled to make a statement. Therefore, Article 20(3) of the Constitution does not come into operation. Thus, a charged official, against whom departmental action has been initiated, cannot invoke the protection of the said Article. Further, the departmental proceedings, a charged officer is never asked to make self-incriminating statements. He is only expected to explain his defence. Therefore, the contention of the appellant that holding of a Departmental inquiry while a criminal case is pending would amount to infringement of Article 20(3) of the Constitution of India is not found acceptable.

The appellant was provided all reasonable opportunities to defend his case against the charges levelled against him. Having failed to make use of such chances, the appellant now seeks to get the punishment order set aside on the plea unacceptable that the Departmental Inquiry preceded the prosecution. I have already discussed this point and hold that the contention of the appellant is incorrect. He has not come up with any new facts in support of his contention nor has he discussed the charges framed against him in the Rule-14 Inquiry. I do not, therefore, find any reason to intervene in the matter or intercede on his behalf. The order of dismissal issued by the Disciplinary authority shall, therefore, have to stand. The appeal is, therefore, rejected.

(H. RAJENDRA PRASAD)  
Chief Postmaster-General,  
A.P. Circle, Hyd.

Copy to:

1. The appellant through the Sr. Postmaster, SECUNDERABAD  
H.O. 500 001
2. The Director of Postal Services, A.P. Northern Region  
Hyderabad-500 001
3. The Sr. Supdt. of Post Offices, Secunderabad Divn.  
Secunderabad.
4. The Sr. Postmaster, Secunderabad 500 003
5. File. 6. Spare.

....

A-III (25) 123

GOVT. OF INDIA : DEPT. OF POSTS  
Office of the Chief P.M.G., A.P. Circle, Hyderabad-500 001  
No. STA/13-1/1/89 dated at Hyd., the 27.2.1990

Read the following:

1. Memo No. RDH/ST/20-5/1/88 dated 18.7.88 of the Director of Postal Services, A.P. Northern Region, Hyderabad-500 001.
2. Appeal dated 18.7.88 of Sri B. Laxman Rao, formerly LSG PA, Secunderabad H.O.
3. Other connected records.

ORDER

This is an appeal from Sri B. Laxman Rao, formerly LSG PA, Secunderabad H.O., against the orders of his removal from service ordered by the DPS AP NR, Hyderabad vide Memo No. RDH/ST/20-5/1/88 dated 18.7.88.

The appellant was proceeded against under Rule-14 of the CCS (CCA) Rules, 1965 for commission of fraud in Savings Bank account and Cash Certificates. The appellant did not participate in the inquiry and the inquiry was, therefore, conducted ex-parte. The Disciplinary authority based his decision on the result of the inquiry. In the appeal, I find that no mention has been made about charges of misappropriation but the appellant relies heavily on technical aspects of the Rule-14 inquiry, being instituted while a case was pending trial. The official was given an opportunity to prove his innocence vis-a-vis the charges framed against him. The opportunity was not availed of by him.

I have carefully gone through the appeal.

The appellant submits that the inquiry report was not supplied to him in advance to enable him to submit his written brief to the disciplinary authority. In this context the judgment of Hon'ble C.A.T., Bombay is referred to. In the CCS (CCA) Rules, 1965, there is no mention or stipulation for the supply of the inquiry report in advance to the charged official and therefore such a course could not be adopted. The decisions in C.A.T. are applicable to individual cases and cannot be generalised or applicable to all cases regardless of attendant circumstances of each case. Therefore, the appellant cannot demand a copy of the inquiry report as there was no provision at the time of holding the enquiries into this case which made it incumbent to provide the inquiry report in advance.

The appellant mentions that the holding of a mental enquiry simultaneously when a case is pending is contrary to the Rules and infringes Article 20(3) of the Constitution of India. It may

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No: 1-84/95-VP  
Government of India  
Department of Post  
Dak Bhawan, Sansad Marg,  
New Delhi-110 001

A-IV

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SEP 10 1995

ORDER

Dated : 22 SEP 1995

Sh.B.Laxman Rao, Ex-LSG Postal Assistant, Secunderabad HO has submitted a petition on 5.4.95, against the penalty of dismissal from service imposed on him by DPS, Northern Region, Hyderabad, the disciplinary authority vide memo dtd. 18.7.88, and upheld by the Chief Postmaster General, A.P.Circle, Hyderabad, the appellate authority, vide memo dtd. 27.2.90.

2. At the outset, it is seen that the ex-official has preferred his petition after a gap of more than 5 years from the date of the appellate order. Though there is no time limit prescribed for preferring a revision petition, a person wanting to prefer a petition must do so within a reasonable time and such reasonable time cannot be more than 6 months. Any delay beyond that would be unreasonable. The delay of more than 5 years in the instant case, therefore, is too unreasonable to justify consideration of the petition. As regards the acquittal of the petitioner in the criminal case against him, it may be mentioned that the same has got no bearing on the disciplinary case against him, which was for violation of departmental rules. The petition therefore, deserves to be rejected on the ground that it is being preferred after unreasonable delay.

3. In view of the foregoing, I do not find any justification to entertain the petition at this inordinately delayed stage.

4. I accordingly, hereby reject the petition.

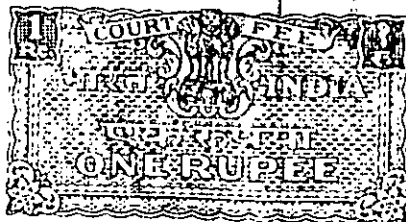
*A.V. Rao*  
(A.V. RAO)  
MEMBER(P)

POSTAL SERVICES BOARD

Sh.B.Laxman Rao,  
Ex-LSG, PA,  
Secunderabad HO,  
House No. 6-7-57/52,  
Bansilapet, Secunderabad

(Through CPMG, A.P.Circle, Hyderabad).

*TR*



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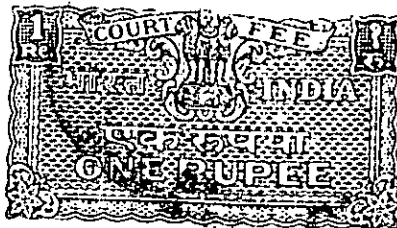
the years 1985 and 1986. On 21-2-1986, Shaik Hussain deposited an amount of Rs.4,500/- in his savings Bank Account No.375763 in Medchal Post office. He handed over the said amount along with Pass Book to the accused at the counter. The accused returned the Pass book making an entry about the deposit of Rs.4,500/- to the said Shaik Hussain (LW2). On 16.3.1986, Shaik Hussain went to the Post office, Medchal for withdrawal of Rs.1,000/-. The accused gave Rs.1000/- to Shaik Hussain and retained his Pass book stating that it is required for adding interest for the year 1985-86. He issued a receipt of pass book showing the balance of Rs.3,745/- after allowing withdrawal of Rs.1,000/- in Form No.28. Subsequently the accused returned the pass book stating that the interest was not added by the Head office and ~~stating~~ took back the receipt. The accused did not credit the deposit of Rs.4,500/- and debit the withdrawal of Rs.1,000/- dt. 16-6-1986 in the accounts of Medchal Post office i.e. in the Savings Bank Long Book and Sub-office Account. After deducting the withdrawal of Rs.1,000/- the net amount of misappropriation in S.B.Account

words:175

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A-V

28



IN THE COURT OF THE JUDL.MAGISTRATE OF FIRST CLASS AT MEDCHAL

PRESENT:: SRI S.RAMAIANI, B.COM?., LL.B.  
JUDL.MAGISTRATE OF 1ST CLASS

Dated this the 16th day of January, 1995.

C.C.No.218 of 1992

Between:-

The State through Sub-Inspector  
of Police, Medchal PS.(Cr.No.103/86) ..Complainant.

And

B.Lakshman Rao s/o Balaiah,  
age: 39 yrs, occ:Employee,  
r/o. Bansilalpet, Secunderabad. ..Accused.

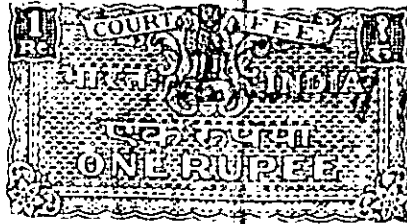
This case coming on for final hearing before me today in  
the presence of APP for the complainant and of Sri P.Narsimha  
Reddy, Advocate for the accused, having heard and having stood  
over for consideration, this court delivered the following::

:: J U D G M E N T ::

The Sub-Inspector of Police, Medchal Police Station  
filed charge-sheet against the accused for the offences under  
sections 409, 420 and 468 I.P.C. with the following allegations::  
The accused worked as Sub-Post Master, Medchal Post office in

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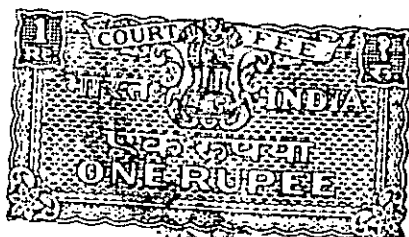
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credit the amount of Rs.2,400/- in the Accounts of Medchal Post office. Smt.T.Nagamani (LW6) invested Rs.4,000/- in Medchal Post office by Purchasing National Savings Certificates, in the month of November, 1985. She handed over the amount of Rs.4,000/- to the accused alongwith the application. The accused asked her to come and collect the Certificates four or five days hereafter. The accused prepared 40 certificates bearing Nos.C/14 878295 to 878334 of Rs.100/- denomination each dt. 25-11-1985 and gave the same to Smt.T.Nagamani. But he did not bring to the Account of the Sale proceeds of the above certificates of Medchal Post office and did not credit the amount of Rs.4,000/- in the cash account. 64 certificates of Rs.100/- denomination each were deducted from the Stock book of Medchal Post office by the accused without noting the date of issue. Smt.N.Saraswathi Devi (LW7) invested Rs.11,000/- on 3-6-1986 by purchasing National Savings Certificates. She handed over the application alongwith Rs.11,000/- to the Accused. The accused issued one certificate bearing No.E/14

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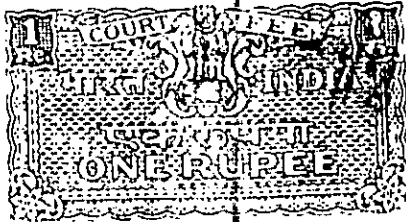


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No.375763 is Rs.3,500/-. The accused also misappropriated an amount of Rs.,1000/- from 21-2-1986 to 15-6-1986 and Rs.3,500/- permanently. On 11-2-1986 the accused had withdrawn an amount of Rs.2,500/- and on 10-4-1986 he withdrew an amount of Rs.1,500/- from the S.B.Account No.375829 belonging to M.V.Rama Rao (LW3) by forging the signatures of M.V.Rama Rao on the withdrawal forms. There are no corresponding entries in the pass book of Rama Rao. The entries about these withdrawals were made in the Sub-office Daily Account, S.B.List of Transactions and in the Savings Bank Ledger Card. M.V.Rama Rao disowned his signatures on the applications for withdrawals, and also denied having withdrawn such amounts. K.Krishna Murthy (LW4), Head master of Zilla Parishad High school, Aliabad gave Rs.2,400/- to T.Swamy (LW5), Postman, Medchal for purchase of National Savings Certificates in the names of 12 Teachers. This amount being the D.A.Arrears had to be invested in a Post office by Purchasing National Savings Certificates. T.Swamy (LW5) gave the said amount along with 12 applications to the accused. The accused had prepared 24 cash certificates of each Rs.100/- denomination on 16.11.1985 assigning registration numbers. But the accused did not

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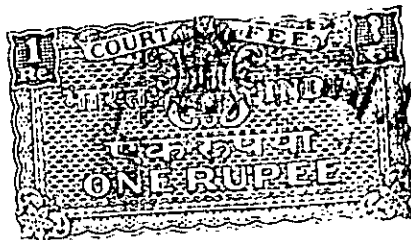
Handwriting Expert to compare the same with the signatures of M.V.Rama Rao on the Applications for withdrawals. The accused surrendered on 22-2-1987. The misappropriated amount was paid to the Postal Department by the accused.

The case was taken on file against the accused for the offences under sections 409, 420 and 468 IPC. When the accused appeared before this court, after furnishing the copies of documents to him, he was examined under section 239 Cr.P.C. Charges under sections 409, 420 and 468 I.P.C. were framed against the accused, read over and explained the same in Telugu to the accused. He denied the offence and pleaded not guilty. To prove its case against the accused, the prosecution examined Pws. 1 to 9 and marked Exs.P.1 to P.73. Pw.1 is the defacto-complainant, Pws. 2 to 8 are the witnesses to the transactions and Pw9 is the investigating officer. After the prosecution closed its case, the accused was examined under section 313 Cr.P.C. and he denied the offence. He did not adduce any evidence on his behalf.

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119802 of Rs.1000/- denomination and two certificates bearing Nos. F/4 974404 and 974405 of Rs.5,000/- denomination each to Smt. M.Saraswathi. But he did not credit the sum of Rs.11,000/- in the cash account of Medchal Post office. Through Invoice No.7 Dt. 6-3-1986, Trimulgherry Post office supplied the National Savings Certificates bearing Nos.E14 119802 to 119807 (five certificates), and through Invoice Dt. 5-5-1986 the N.S.Cs. bearing Nos.E/23 636767 to 636781 (15 certificates) of Rs.1,000/- denomination and F/4 974404 to 974406 (3 Nos.) of Rs.5,000/- denomination each to Medchal Post office. These certificates were not entered in the Stock Register, even though the above certificates were received by the accused under acknowledgment. The total misappropriation committed by the accused is Rs.24,900/-. On receipt of a report from Mohd. Hussain, Asst.Superintendent of Post office, Secunderabad North Division (LM) a case in Cr.No.105/86 was registered. The statements of the witness were recorded and the documents were collected. The signatures of the accused (as M.V.Ram Rao) were obtained in the presence of panchas. They were sent to the

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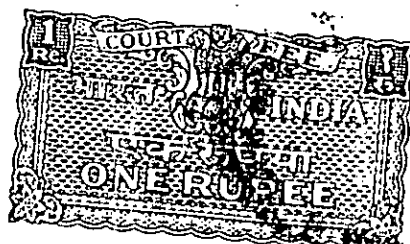
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shared in a mutually convenient manner. PW.1 visited Medchal Post office on 4-9-1986. At that time the accused was working as Sub-Post Master, Ghatkesar. Prior to that he worked as Sub-Post Master, Medchal. In his cross-examination PW.1 stated that when he visited Medchal Post office, the strength of the staff was six, that there were specified duties to each staff member, that one Shabhir ali was working as Postal Assistant in Medchal Post Office, that generally the Postal Assistant does the monetary transactions like Savings Bank Account and Savings Certificates etc. under the supervision of the Post Master.

The case of the Prosecution is that the accused received Rs. 4,500/- from PW.2 to deposit the same in his S.B. Account and gave an amount of Rs.1000/- to him when he intended to withdraw the said amount from his S.B. Account, that the accused did not credit and ~~debit the above amounts in the S.B. Account of PW.2, that the accused~~ ~~Rs. 4,000/- from the S.B. Account of PW.3 by~~ ~~for~~ debit the above amounts in the S.B. Account of PW.2, that the accused withdrew an amount of Rs.4,000/- from the S.B. Account of PW.3 by forging two applications for withdrawals, and did not credit the amount of Rs.17,400/- being the sale proceeds of the National

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The Point for consideration is whether the prosecution has proved its case against the accused for the offences under sections 409, 420 and 468 I.P.C. beyond reasonable doubt ?

Mohd.Hussain(PW.1) worked as Asst.Superintendent of Post offices, North:Sub-Division, Secunderabad from 1986 to 1990. Medchal Post office comes under the said Sub-division. The duty of PW.1 was to detect and investigate into cases of fraud. Medchal Post office is a 'B' Class Post office. In a 'B' Class Post office apart from Sub-Post Master, there will be a Postal Assistant. The Postal Assistant attends to the Savings Bank Accounts. The Memorandum of Distribution of work (M.D.W.) was Prepared and supplied by the office of the Sr.Superintendent of Post offices, Secunderabad to Medchal Post office and according to it the Savings Bank work should be performed by the Postal Assistant under the supervision of the Sub-Post Master. In Ex.P.1, PW1 stated that on enquiry Sri Sabir Ali, Postal Assistant stated that in the absence of Memorandum of Distribution of work, the work was

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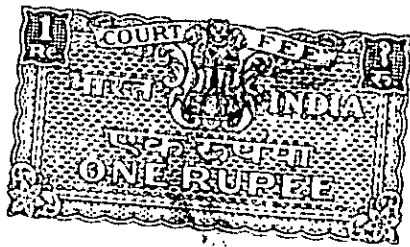


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stated that Shaik Hussain informed him that the accused obtained his Pass Book for the Purpose of adding the interest by issuing a receipt in Form No.SB 28 and after some time, he returned the Pass book stating that there is no interest to his account and took back the receipt, that on account of this he (PW1) came to the conclusion that the accused did not deposit the amount of Rs.4,500/- in the Post Office account and when Shaik Hussain intended to withdraw Rs.1,000/- the accused himself arranged the payment from his pocket and misappropriated the amount of Rs.3,500/-. According to PW.1 he recorded the statement of Shaik Hussain(PW2).According to the Prosecution, PW.2 deposited an amount of Rs.4,500/- in his S.B. Account No.375763 and though this amount was mentioned in the Pass book of PW.2, the same was not mentioned in the Sub-Office Daily Account, S.B. List of Transactions and the Savings Bank Ledger Card. The Prosecution filed the Sub-Office Daily Account (Ex.P5) S.B.List of Transactions (Ex.P6) and S.B.Ledger Card (Ex.P7). These documents show that there is no entry of

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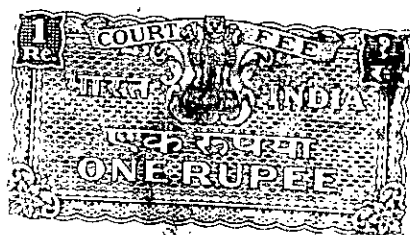
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Savings Certificates and as such he misappropriated a total amount of Rs.24,900/- as Sub-Post Master of Medchal Post office. In his cross-examination PW.1 stated that on the date of his visit to Medchal Post office, the accused was working at Ghatkesar Post Office. PW.1 has not stated the period in which the accused worked as Sub-Post Master of Medchal Post office.

PW.1 stated that on verification he found some discrepancies in respect of the S.B.Account of Shaik Hussain (PW2), that the said Shaik Hussain was having S.B.Account in Medchal Post office, that in the Pass Book there was deposit of Rs.4,500/- and withdrawal of Rs.1,000/-, that as he entertained doubt about the deposit of Rs.4,500/-, he called for the Pass book and verified the transactions that there was no corresponding entry of the deposit of Rs.4,500/- in the Account Books, that when enquired Shaik Hussain informed him that he deposited Rs.4,500/- by filling up a Pay-in-slip and the same was entered in the Pass Book, that subsequently when he intended to withdraw an amount of Rs.1,000/- the same was given to him by making an entry in the Pass Book, that this amount of Rs.1,000/- was also not debited in the Account Books, PW.1 further

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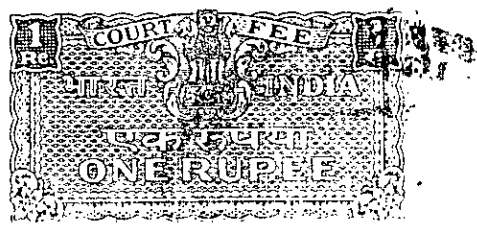
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used to withdraw the amounts from his account. He specifically stated that there was no variation in amounts deposited by him or in the amounts withdrawn by him in his account. He stated that the accused, who worked as Post Master of Medchal Post office took his pass book at one time saying that he will adjust the interest to his account and returned the same in about five or six days and in the pass book he did not make an entry about the interest. Pw.1 has not stated that on 21-2-1986 he deposited an amount of Rs.4,500/- and on 16-6-1986 he withdrew an amount of Rs.1000/- from his S.B.Account. His only evidence is that he used to deposit the amounts and withdraw the same from his account and that there is no variation in the amounts. The Prosecution has not adduced the positive evidence that on 21-2-1986 Pw.2 deposited Rs.4,500/- and withdrew Rs.1,000/- on 16-6-1986. It is not also the evidence of Pw.1 that he deposited Rs.4,500/- on 21-2-1986 and withdrew an amount of Rs.1,000/- on 16-6-1986. There are no entries in the Account Records of Medchal Post Office that Pw.2 deposited an amount of Rs.4,500/- on 21-2-1986 and withdrew an amount of Rs.1,000/- on

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deposit of Rs.4,500/- on 21-2-1986 in respect of S.B.Account No. 375763. The further case of the Prosecution is that on 16-6-1986, PW.2 withdrew an amount of Rs.1,000/- from his savings Bank Account, that the accused himself arranged the payment of this amount from his pocket and paid the same to PW.2 without making an entry about this amount in the Post office Accounts and making an entry only in the Pass Book. Ex.P8 is the Sub- Office Daily Account, Ex.P9 is the S.B.List of Transactions and Ex.P.11 is the Pass Book of PW.2. In Exs. P8 and P9 the withdrawal of the amount of Rs.1,000/- is not mentioned. In Ex.P.11 Pass Book there is an entry in the Pass Book about the deposit of Rs.4,500/- on 21-2-86 and an entry about the withdrawal of Rs.1,000/- on 16-6-1986.

To Prove that on 21-2-1986 PW.2 deposited an amount of Rs.4,500/- in his S.B.Account and on 16-6-1986, he withdrew an amount of Rs.1,000/-, the Prosecution examined PW.2. PW.2 is working as Sub-Inspector of Telephones at Medchal. He stated that he opened a Savings Bank Account in the Post Office, Medchal, that he used to deposit the amounts and whenever he was in need of money, he

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COURT OF FEES  
INDIA  
ONE RUPEE

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the S.B. List of Transactions, Ex.P.17 is the Pass book of PW3 and Ex.P.18 is the S.B.Ledger Card. In all these documents, there are entries showing that an amount of Rs.2,500/- was withdrawn on 11-2-1986 and an amount of Rs.1,500/- was withdrawn on 10-4-1986, from the S.B.Account No.375829. PW.1 stated that while checking the Savings Bank Ledger of PW3, he found corrections and over writings, that on verification of S.B.28 receipt Book he came to know that the accused obtained the Pass Book of PW.3 for adding the interest, that as PW3 was not available, he obtained the extract of the account and went to the Head Post Office for verification of the account, that there he found that the Pass Book of PW.3 was not at all sent to the Head Office for adding the interest, that he also found that two transactions of withdrawals one of Rs.2,500/- and the other of Rs.1,500/- were not noted in the account books of Medchal Sub-Post office, that then he came to the conclusion that there was misappropriation of Rs.4,000/- in respect of S.B.Account of PW.3 by the accused. According to the Prosecution the accused had withdrawn an amount of Rs.4,000/- from the S.B.Account of PW.3 by forging the signatures of PW3 on the application for withdrawals. Ex.P2 is the application Dt.11-2-86 for withdrawal of Rs.2,500/- and Ex.P.3 is the application Dt.10-4-1986 for withdrawal

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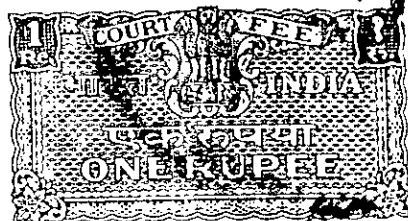
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16-6-1986. There is no acceptable evidence to show that it is the accused who made the entries in the Pass Book (Ex.P.11). Simply because there are entries in Ex.P.11 that an amount of Rs.4,500/- was deposited on 21-2-1986 and an amount of Rs.1,000/- was withdrawn on 16-6-1986, it cannot be concluded that the accused Misappropriated an amount of Rs.3,500/- belonging to PW.2. The statement said to have been recorded by PW.1 from PW.2, which is marked as Ex.P.10, is not a substantive Piece of evidence. No reliance can be placed on this statement. In this court PW.2 has clearly stated that there is no variance in the amounts deposited and withdrawn by him from his Savings Bank Account. Therefore, it can be concluded that the Prosecution failed to prove that the accused misappropriated an amount of Rs.3,500/- belonging to the Savings Bank Account of PW.2.

The further case of the Prosecution is that the accused withdrew an amount of Rs.2,500/- on 11-2-1986 and an amount of Rs.1,500/- on 10-4-1986 by forging the applications of withdrawals from the Savings Bank Account of PW3 bearing No.375329. Ex.P.12. is the Sub-Office Daily Account, Ex.P.13 is the S.B.List of Transactions, Ex.P.14 is the Sub-Office Daily Account, Ex.P.15 is

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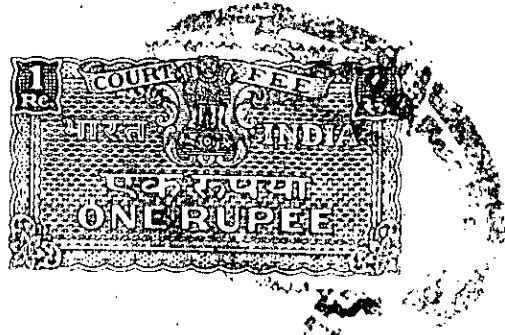


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Post Office, that at the time of opening the account, his specimen signatures were obtained, that whenever he withdrew the amounts, he used to fill up the entries in the withdrawal forms, that Exs. P73 to P75 are the withdrawal forms submitted by him, that when he sent his Pass book to the Head office to include the interest, the Head Office people stated that the amount shown in his pass book is not available in their records and returned the pass book. He says that he came to know that the officials of Medchal Post Office are responsible for the variations of the amount of Rs.4,000/- in his account. In his cross-examination he stated that whatever amount he deposited was mentioned in his pass book and whatever amount he deposited he withdrew the same. He also stated that he did not state before the Police that when his Pass Book was sent to the Head Office for adding interest, the Head Office people stated that the amounts mentioned in his Pass Book are not available in their records and returned the Pass Book. According to PW3, whatever amounts deposited by him were withdrawn by him. Exs. P2 and P3 were not shown to this witness. PW3 has not stated that the signatures on Exs. P2 and P3 do not belong to him. He has also

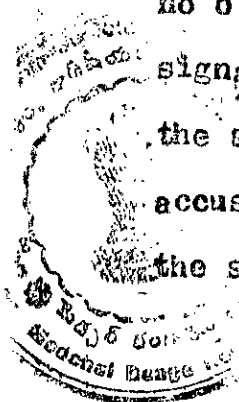
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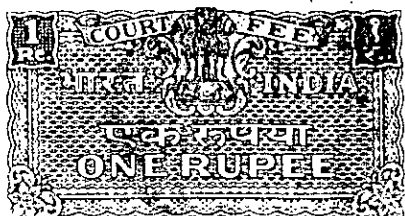
of RS.1,500/- from the S.B.Account No.375829 belonging to PW.31 Ex.P4 is the nomination form submitted by PW3 at the time of opening S.B. Account in Medchal Post office. Exs.P2 to P4 were sent to the Handwriting Expert to compare the same with the signatures written as "M.V.Rama Rao" by the accused in the panchanama (Ex.P76) and also the signatures as "M.V.Rama Rao" made by the accused in the Open court and with the admitted signatures of PW3 on Ex.P4. The Expert marked the signatures on Exs.P2 and P3 as Q1 to Q4 and the admitted signatures on Ex.P4 as S1 and S2 and the signatures made by the accused as "M.V.Rama Rao" as S3 to S13. He opined that the person who wrote the red enclosed signatures marked S1, S2 and S4 to S13 did not write the red enclosed signatures marked Q1 to Q4 and that no opinion can be given on the authorship of the red enclosed signatures marked Q1 to Q4. The Prosecution has failed to prove that the signatures marked as Q1 to Q4 on Exs.P2 and P3 are that of the accused. Hence the case of the Prosecution that the accused forged the signatures of PW3 on Exs.P2 and P3 is not true.



PW3 is working as Sub-Inspector of Telephones in Medchal. He stated that he opened an S.B.Account in Medchal

words:175

correct:✓



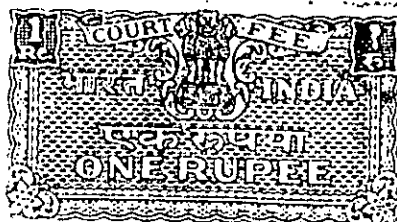
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National Savings certificates of Rs.2,400/- in the names of 12 Teachers, that he received 24 N.S.Certificates of Rs.100/- denomination each. PW4 is working as Postman in Medchal Post office. He stated that PW7 purchased National Savings Certificates from Medchal Post office. According to the Prosecution, PW7 gave the amount of Rs.2,400/- to PW4 and PW4 purchased the N.S.Certificates from Medchal Post office. But PW7 says that he himself purchased the certificates and PW4 says that he did not state before the Police that PW7 gave him Rs.2,400/- and he (PW4) purchased the Certificates. PW4 admitted that che Shabir Ali was dealing with the S.B.Accounts of Medchal Post office. PW5 stated that she deposited an amount of Rs.4,000/- in Medchal Post office, that the accused gave her 40 National Savings Certificates, that she gave the amount to the accused and after maturity she obtained the amount of these Certificates. PW8 stated that on 3-6-1986 herself and her husband Prasad Sharma went to the Medchal Post Office and Purchased National Savings Certificates of the value of Rs.11,000/-, that they paid Rs.11,000/- and he gave them the Certificates of the value of Rs.11,000/-, that ~~there~~ three months there-

words:175

correct: *[Signature]*

44.33



17 12

not stated that he did not withdraw the amounts mentioned in Exs. P2 and P3. The withdrawal of amounts under Exs. P2 and P3 were mentioned in all the relevant records of Medchal Post office. PW.3 has not stated that he did not withdraw the amounts mentioned in Ex. P2 and P3. The Prosecution has not proved that the accused forged the signatures on Exs. P2 and P3. Simply because the withdrawal of the amounts of Rs.2,500/- on 11-2-1986 and Rs.1,500/- on 10-4-1986 was not mentioned in the Pass book (Ex. P17) it cannot be concluded that the accused misappropriated the amount of Rs.4,000/- from the S.B. Account of Pw.3. The statement of PW3, said, to have been recorded by PW.1 which is marked as Ex. P.16, is not a substantive Piece of evidence, and as such no reliance can be placed on this statement. In this court PW3 has clearly stated that whatever amounts he deposited in his S.B. Account were withdrawn by him. Therefore it can be concluded that the prosecution has failed to prove that the accused misappropriated an amount of Rs.4,000/- from the S.B. Account of Pw.3.

PW7 worked as Head Master, Zilla Parishad High School, Aliabad. He stated that in the year 1985 or 1986 he obtained

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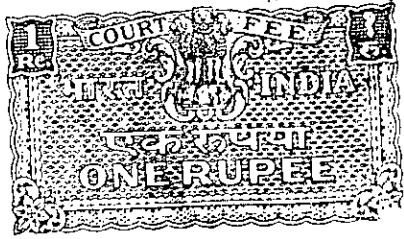
of Rs.100/- denomination each to PW5 and one Certificate of Rs.1000/- denomination and two certificates of Rs.5,000/- denomination each to PW8. According to the Prosecution, the accused did not enter these amounts in the Accounts of Medchal Post office and misappropriated the same. Exs.P19 to P72 are the National Savings Certificates, applications for purchase of N.S.Certificates, Sub-office Daily Accounts and the Statements of the persons in whose names the N.S.Certificate were purchased. PW.1 stated that he verified the stock of National Savings Certificates of Medchal Post office and cross-checked the same with reference to the records maintained by Trimulgherry Head Post Office, that he found that there is discrepancy of the certificates amounting to Rs.4,200. that when questioned the accused stated that everything is available at Medchal Post office, that they decided to take the accused to Medchal Post office, that the accused went to his house at Secunderabad and came out with a packet and asked them to come to Medchal Post office along with him, that they went to the

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45/34



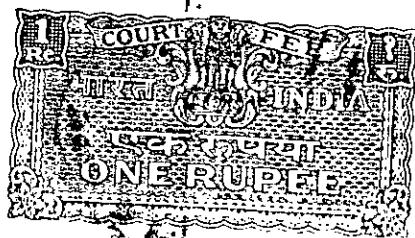
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after the Postal officials came and took the Certificates from them and they received the amount after the expiry of the period. In her cross-examination she stated that her husband looks after their Bank and Post office works, that after her husband ~~fill~~ filled the forms, she signed on the same, that her husband paid the amounts for the purchase of Certificates and that she did not see who received the cash in the Post office. Though in her examination-in-chief, PW3 stated that she paid Rs.11,000/- to the accused, in her cross-examination she stated that her husband paid the cash in the Post office and that she did not see who received the cash in the Post office.

The case of the prosecution is that the accused received Rs.2,400/- from PW7, Rs.4,000/- from PW5 and Rs.11,000/- from PW3 and issued the National savings Certificates to them, that he issued 24 N.S.Certificates of Rs.100/- denomination each in the names to 12 Teachers of Z.P.High & School, Aliabad, 40 N.S.Certificates

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correc: ✓



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Certificates at Medchal Post office at the time when he verified the stock, it cannot be said that the accused is responsible for the same, 24 certificates of National Savings each of Rs.100/- denomination, 40 certificates each of Rs.100/- denomination, one certificate of Rs.1000/- denomination and two certificates each of Rs.5,000/- denomination were issued to PWs. 7, 5 and 3 respectively. According to the prosecution the sale proceeds of Rs.17,400/- of N.S. Certificates was not entered in the Accounts of Medchal Post office. The Prosecution filed the Sub-Office Daily Account Statements to show that the above amounts were not mentioned in the Accounts of Medchal.

In his Cross-examination PW.1 says that one Shabir Ali was working as Postal Assistant and generally the Postal Assistant does the monetary transactions like Savings Bank Account and savings Certificates under the supervision of Sub-Post Master, According to the Prosecution, Medchal Post office is a 'B' Class Post Office and in a 'B' Class Post office, Savings Bank work is performed by the Postal Assistant as per the Memorandum of Distribution of work prepared and supplied by the

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correct:



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Head Office, Secunderabad where the investigation was going on and there the accused showed some blank certificates amounting to Rs.24,000/- and also produced the other records like applications for Purchase of National Savings Certificates and Issue Journals amounting to Rs.17,400/- PW.1 further stated that the accused admitted that he utilised the amount of Rs.17,400/- relating to the sale of N.S.Certificates, that he promised to get the amount within some time and subsequently he paid the amount of Rs.24,900/- in two instalments. The Senior Superintendent of Post offices, Secunderabad in whose presence, the Statements of the accused were said to have been recorded is not examined before this court.

The Prosecution did not produce the Stock Register of the National Savings Certificates supplied to Medchal Post office. There is no dispute that the blank N.S.Certificates amounting to Rs.24,000/- were produced by the accused by taking the same from Medchal Post office. At the time when PW.1 is said to have verified the stock of N.S.Certificates, the accused was working at Ghatkesar. Simply because PW.1 could not find the blank N.S.

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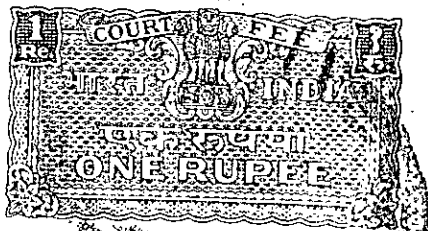


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entering the amounts in the Sub-Office Daily Account. The accused as Sub-Post Master was only a supervisory officer over the Postal Assistant. It is only the Postal Assistant who receives the amounts of Savings Bank and National Savings Certificates and enters the same in the Accounts. Pws. 5, 7 and 8 stated that they received the National Savings Certificates and after their maturity, they withdrew the amounts of the N.S. Certificates. The case of the accused is that when the accused came to know about the discrepancies, the accused as head of Medchal Post office took up the responsibility of making good of the amount, that all the members of the staff of the Medchal Post office contributed the amount of Rs. 24,000/- and major amount was contributed by the Postal Assistant Shabir Ali. As the Head of Medchal Post office, the accused may be responsible for the lapses committed by the Postal assistant. Simply because some amounts were not entered in the records of the Post office it cannot be concluded that the accused misappropriated the amounts. The prosecution has not produced the cash

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correct: ✓

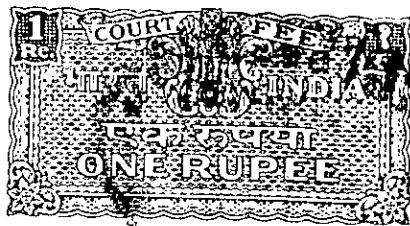


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Divisional Superintendent. One Shabir Ali was the Postal Assistant when the accused was working as the Sub-Post Master, Molchal. PW.1 recorded the Statements of PWs. 2 and 3. The Statements of the persons in whose names the N.S.Certificates were issued were also recorded. Neither PW.1, nor the investigating officer recorded the statement of Shabir Ali in this case. The prosecution has not examined the said Shabir Ali before this court, nor gave any explanation as to why the Statement of Shabir Ali was not recorded and as to why the said Shabir Ali was not examined before this court. Shabir Ali is an important witness for the prosecution. Even according to the prosecution the said Shabir Ali as Postal Assistant was responsible for dealing with the monetary transactions of Savings Bank accounts and the purchase of National Savings Certificates. There is no reason as to why the said Shabir Ali was not prosecuted for not entering the Sale proceeds of the National Savings Certificates in the Accounts of Molchal Post office. At least the evidence of the said Shabir Ali would have thrown some light on the case of the prosecution as to who exactly received the amounts and the reason for not

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writing he will save him and otherwise they will suspend his services and on that promise the accused wrote the statement. The prosecution has to prove the misappropriation beyond doubt. The statements of the accused cannot be taken into account and on the basis of those statements it cannot be concluded that the Prosecution has proved the offence of misappropriation. From the above discussion, I find that the prosecution has failed to prove that the accused committed the misappropriation of the amount of Rs.24,900/-. Therefore, I find that the Prosecution has failed to prove its case against the accused for the offences punishable under sections 409, 420 and 468 I.P.C.

In the result, the accused is found not guilty for the offences under sections 409, 420 and 468 I.P.C. and as such he is acquitted under section 243 (1) Cr.P.C.

Typed to my dictation, corrected and pronounced by me in the open court on this the 16th day of January, 1995.

Sd/-  
Judl. Magistrate of 1st Class,  
Medchal.

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registers to show that the cash was not remitted to the Account of Post office. For not entering the amounts in the records, the Postal Assistant is mainly responsible and the responsibility of the accused is only a supervisory. Till the Prosecution proves that it is the accused who misappropriated the amounts of the Post office, it cannot be said that the accused is criminally liable for punishment. PW.1 says that he did not obtain any explanation from Shabir Ali. The Postal Department and the prosecution completely let off the responsible person and prosecuted the Sub-Post Master who is only a supervisory officer. The prosecution filed the two statements dt. 6-9-1986 and 8-9-1986 marked as Ex.P.45 stating that the accused accepted the misappropriation. In his cross-examination PW.1 stated that he does not know whether the accused wrote the statement Dt. 6-9-1986 voluntarily or under coercion and whether Sri D.A.Rahaman Khan, Sr. Superintendent of Post office threatened the accused to give his statement else he will be suspended. It was suggested to PW.1 that the Sr. Superintendent of Post office Promised that if the accused gives his statement in

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- Ex.P.16 Statement of M.V.Rama Rao.(PW.3). 3-D -86  
Ex.P.17 pass book of PW3. dt. 24-9-93  
Ex.P.18 S.B.Ledger Card of M.V.Rama Rao ( PW.3) dt. 11-7-81.  
Ex.P.19 Sub officeDaily Account dt. 26-11-85.  
Ex.P.20 Daily Journal dt. 26-11-85.  
Ex.P.21 Statement of Narayana rao dt. 19-9-86.  
Ex.P.22 Statement of P.Narayana Rao ((PW.5) dt. 13-9-86.  
Ex.P.23 Application of PW.5 dt. 6-1-93.  
Ex. P.24 N.S.Certificate issued to PW.5 dt. 6-1-93.  
Ex.P.25 Sub-Office daily Accoun dt. 16-1-86.  
Ex.P.26 Daily Journ dt. 16-1-86.  
Ex.P.27 N.S.Certificate of Purshottam dt. 16.11.85.  
Ex.P.28 Statement of Purshottam dt. 19-9-86.  
Ex.P.29 Application of Purshottam.  
Ex. P.30 N.S.Certificate of Buchireddy, dt. 16-11-85.  
Ex. P.31 Statement of Buchireddy dt. 19-9-86.  
Ex.P.32 Application ofBuchireddy, dt. 8-1-83.  
Ex.P.33 N.S.Certificate of Innareddy, dt. 16-11-85.  
Ex. P.34 Statement of Innareddy, dt. 19-9-86.  
Ex.P.35 Application of Innareddy.  
Ex.P.36 N.S.Certificate of Md.Osman dt. 16-11-85.  
Ex.P.37 Application of Md.Osman.  
Ex.P.38 N.S.Certificate of Rajana Anthony, dt. 16-11-85.  
Ex.P.39 Statement of Rajana Anthony, dt. 19-9-86.  
Ex.P.40 -do- dt.6-1-93.  
Ex.P.41: Application of Sudhakarreddy  
Ex.P.42 Statement of K.Krishna Murthy (PW7) dt. 13-9-86.  
Ex.P.43 Sub office Daily Account dt. 16-10-85.  
Ex.P.44 Journal of N.S.Certificates dt. 16-10-85.  
Ex. P.45 Statement of Accused dt. 3-9-86.  
Ex.P.46 N.S.Certificate of Anjireddy, dt. 16-11-85.  
Ex.P.47 Statement of Anjireddy dt. 19-9-86.  
Ex.P.48 Application of Anjireddy, dt. 16-10-85.  
Ex.P.49 N.S.Certificate of P.Ramulu, dt. 16-10-85.  
Ex. P.50Statement of Ramulu, dt. 19-9-86.

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APPENDIX OF EVIDENCE  
WITNESSES EXAMINED

FOR PROSECUTION:

FOR ACCUSED

PW.1 Md.Hussain.  
PW.2 Shaik Hussain  
PW.3 M.V.Rama rao.  
PW.4 T.Swamy.  
PW.5 Nagamani  
PW.6 P.Narsingrao  
PW.7 K.Krishnamurthy.  
PW.8 Saraswathi Devi  
PW.9 K. L.Devender rao

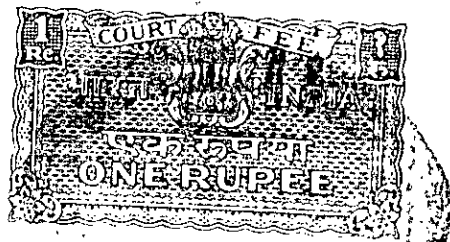
NIL

EXHIBITS MARKED

Ex.P.1 report.  
Ex. P 2 withdrawal form of PW.3 dt.11-2-86.  
Ex.P.3 withdrawal form dt. 10-4-86  
Ex.P.4 Application for opening account dt. 11-7-87.  
Ex.P.5 Sub-office daily Account of Medchal Post office.  
Ex.P.6 List of S.B.transaction dt. 21-2-86.  
Ex.P.7 Ledger card dt. 16.2.85  
Ex. P 8 Sub-Office Daily Account dt. 16.6.86.  
Ex. P 9 S.B.Transaction Medchal Post office dt.16.6.86.  
Ex. P.10 Statement of Shaik Hussain ( PW.2) dt. 4-9-86.  
Ex. P.11 Pass book dt. 23-9-92.  
Ex. P.12 Sub-Office Daily account dt. 11-2-86.  
Ex. P.13 S.B..List of transac.on dt. 14-2-86.  
Ex. P.14 Sub-Office daily account dt. 10-4-86.  
Ex. P.15 S.B.List of transaction dt. 10-4-86.

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- Ex.P.51 Application of Ramulu, dt. 16-10-85.  
Ex. P.52 N.S.Certificate of Harihara Sharma, dt. 16-10-85.  
Ex.P.53 Statement of Harihara Sharma, dt. 19-9-86.  
Ex.P.54 Application Harihara Sharma, dt. 16-10-85.  
Ex.P.55 N.S.Certificate of Narayana Chary, dt. 16-10-85.  
Ex.P.56 Statement of Narayana chary, dt. 13-9-86  
Ex.P.57 Application of Narayana chary, dt. 18 -1-1993.  
Ex.P.58 N .S.Certificate of K.Vidyavathi, dt. 16-10-85.  
Ex.P.59 Statement of K.Vidyavathi, dt. 19-9-86.  
Ex.P.60 Application form of Vidyavathi.  
Ex.P.61 NS Certificate of P.S.wesley,dt. 16-10-85.  
Ex.P.62 Statement of PS.wesley-dt. 19-9-86.  
Ex.P.63 Application of PS.wesley.  
Ex.P.64 Sub office Daily Account.  
Ex.P.65 Recei t.  
Ex. P.66 Letter.  
Ex. P.67 N.S.Certificate of Saraswathi Devi (PW3)  
Ex.P.68 -do-  
Ex.P.69 Statement of N.D.R.D.Prasad, dt. 13-9-86.  
Ex.P.70 Statement of Saraswathi Devi (PW3) dt. 13-9-86.  
Ex.p.71 Application of Sarswathi Devi (PW.8)  
Ex.P.72 Book of Receipts.  
Ex.P.73 Withdrawal form dt. 25-3-85.  
Ex.P.74 Withdrawal form, dt. 7-3-85.  
Ex. P.75 withdrawal form, dt. 16-2-85.  
Ex.P.76 Sample signatures and handwriting of Accused dt. 1-3-87.  
Ex.P.77 FIR  
Ex.P.78 Opinion of hand writing expert dt. 23-3-89.

FOR ACCUSED:-

- Ex.D1: Portion of 161 Statement of PW.4.  
Ex.D2: Portion of 161 Statement of PW.7.

Sd/-  
Judl.1st Class Magistrate,  
Medchal.

words: 100

c.by: ✓

t.by:Mkr

correc: ✓

// Certified to be true copy //

Head Clerk

A-VI

58 40

In the High Court of Judicature, Andhra Pradesh,  
at Hyderabad.

File No. the *Sessat* of *P. Ramesh* /  
One thousand nine hundred and ninety seven

PRESENT.

The Hon'ble Mr. Justice

-and-

The Hon'ble Mr. Justice

Kishna Sharan Srivastava

CRIMINAL APPEAL No. 697 OF 1995.

(Criminal Appl u/s. 212(3) and (1) of Cr.P.C.

against the order in C.C. No. 218 of 1992 dt. 16.1.95.

on the file of the Court of the Judicial Magistrate of 1st Class,  
Medchal.)

between:  
The State through Sub-Inspector  
of Police, Medchal, P.S. (G. No. 155/95).

And

B. Lakshman

Respondent  
(Accused)

For the Appellant: Mr.

Public Prosecutor

For the Respondent:

Mr. P. Rattiah, Advocate.

The Court delivered the following:

Order:

no corresponding entries have been made in the Sub Office Daily Account Book as also Daily Journal. Thus, he has misappropriated an amount of Rs.3,500/-. On 11-2-1986 he also withdrew an amount of Rs.2,500/- from the account of the depositor M.V.Rama Rao-PW 3 by forging his signature in the withdrawal form. On 10-4-1986 he again withdrew an amount of Rs.1,500/- from the account of M.V.Rama Rao-PW 3 by forging his signature. Thus, he withdrew and misappropriated an amount of Rs.4,000/- by forging the signature of M.V.Rama Rao-PW 3 and thus cheated him. Smt T.Nagamani-PW5 also purchased National Savings Certificates worth Rs.4,000/- in the month of November, 1985, and handed over that amount to the respondent-accused along with her application Ex.P.23, and certificate Ex.P.24 was issued to her. K.Krishna Murthy PW 7 also purchased National Savings Certificates worth Rs.2,400/- from the respondent-accused and he was also

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Oral Order

This appeal is directed to set aside the judgment of an acquittal passed by the Judicial Magistrate of First Class at Medchal in C.C.No.218 of 1992 dated 16-1-1995 whereby the respondent-accused has been acquitted of the charges levelled against him under Section 409, 420 and 468 I.P.C.

The case of the prosecution in short is that the respondent-accused was Sub-Post Master at Medchal Post Office in the year 1985 and 1986. On 21-2-1986 Shaik Hussain-PW 2 had deposited an amount of Rs.4,500/- in his Savings Bank Account in Medchal Post Office. On demand by the respondent-accused he handedover his Pass Book for making entries regarding the interest. On 16-8-1986, Shaik Hussain-PW 2 withdrew an amount of Rs.1,000/- and entries were made in his Pass Book, but

these sections were levelled against the respondent-  
who  
accused, / denied his guilt.

The learned Lower Court on assessment of the  
evidence on record reached the conclusion that the  
prosecution has failed to bring home the guilt of  
the accused and therefore acquitted him of the charges  
levelled against him.

Being aggrieved by the judgment of the acquittal  
the State has preferred this appeal.

I have heard the learned Government Public  
Prosecutor as also the learned counsel for the respondent-  
accused.

Sri Shaik Hussain-PW 2 has stated that he had  
opened Savings Bank account in the Post Office at Medchal.  
He used to deposit the amount from time to time and  
whenever he needed money he used to withdraw his amount.  
There was no variation in his Pass Book. Entries were made  
every time when he had deposited the amount and has  
withdrawn the same. He has not stated that <sup>he</sup> ~~was~~ had  
<sup>ca</sup>  
deposited the amount of Rs.4,500/- on 21-2-1986.

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given National Savings Certificate. Smt N. Saraswathi Devi - PW 8 invested Rs.11,000/- on 3-6-1986 by purchasing National Savings Certificates and handedover the application Ex.P.71 to the accused who issued certificate Ex.P.72 to her. On verification of accounts it was found that the respondent-accused has not entered these certificates in the Stock Register. The accused when questioned produced some blank National Savings Certificates from his house and made a confessional statement that he had misappropriated an amount of Rs.17,400/- against the receipt of the <sup>amount</sup> / for National Savings Certificate and also confessed that he has misappropriated Rs.3,500/- from the account of PW 2 and Rs.4,000/- from the account of PW 3 and thus has in all misappropriated amounting to Rs.24,900/-. On 6-9-1986 he made a confessional statement Ex.P.45 in his own hand writing before the Senior Superintendent of Post Office one Mr.D.A.Rahman. He later deposited the amount of Rs.24,900/- in the Post Office.

On the complaint of PW-1, the accused was charge-sheeted under Section 420, 209 and 468 IPC. Charges under

at the time when his specimen signatures were obtained. He used to withdraw the amount as also to deposit some amounts in his account. He came to know that the officials of the Post Office, Medchal had ~~done~~ variations to the extent of Rs.4,000/- from his account. It is noteworthy that the specimen signatures of this witness taken <sup>and the specimen signatures of the respondent-accused</sup> only in ~~hand~~ writing of the respondent-accused, were not shown to him by the prosecution and he has not stated that relevant signatures through which the amounts were withdrawn did not belong to him. The respondent-accused was asked to write the signatures of M.V.Rama Rao-PW 3 and these signatures were sent by the prosecution to the hand writing expert for comparing with the genuine signatures of M.V.Rama Rao-PW 3, but as per the report of the hand writing expert no opinion could be given <sup>on the basis</sup> ~~on account~~ of such comparison. Thus, the prosecution <sup>has</sup> failed to establish that the respondent-accused has forged the signatures of M.V.Rama Rao-PW 3 and had



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He has not stated whether he had with-drawn Rs.1,000/- on 16-6-1986. There are no entries in the Account Records kept in the Medchal Post Office that PW 2 has deposited an amount of Rs.4,500/- on 21-2-1986 or withdrawn Rs.1,000/- on 16-6-1986. It is pertinent to note that PW 1 has not testified that the entries in the Pass Book of Shaik Hussain-PW 2 are in the hand writing of the respondent-accused. I got from his evidence that one Sabbir Ali was originally dealing with the Savings Bank Account. There is no evidence on record that the respondent-accused was incharge of the Savings Bank Account, though there is evidence on record that being a Sub Post Master It was his duty to supervise, but that itself does not appear sufficient to <sup>pass on</sup> ~~pass~~ <sup>with</sup> ~~on~~ him the responsibility of making entries either in the Account Books or in the Pass Book of the subscribers.

M.V.Rama Rao-PW 3 has testified that withdrawal forms submitted by him are Exs P-73 and P-74, and has also stated that he had opened a Savings Bank Account at Medchal Post Office and the respondent-accused was the Post Master

paid Rs.2,400/- personally to the accused and had purchased the National Savings Certificates from him. PW-4 the Post man did not support the case of the prosecution and has turned hostile.

Smt Saraswathidevi PW 8 has stated to have purchased National Savings Certificates worth Rs.11,000/- from the respondent-accused by paying an amount of Rs.11,000/- to him. She has also stated to have received the certificates worth Rs.11,000/- from him, but in the cross examination she has stated that she did not see as to who had received the cash in the Post Office. She has also stated that her husband looks after her bank affairs and Post Office works and actually he had obtained her signatures on the application form which was filled by her husband who had paid the amount for the purchase of the certificates. The Prosecution has not examined her husband Sri.M.V.R.H.Sharma. Even otherwise, from her evidence it does not appear that the accused has misappropriated the amount of Rs.11,000/- after receiving

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With draw Rs.4,000/- from his account.

Smt. Nagamani-PW 5 has stated on oath that she had paid Rs.4,000/- to the respondent-accused for purchasing National Savings Certificates and he had issued National Savings Certificates to her. PW-1 has proved the Sub-Office Daily Account Ex.P-25 has also Daily Journal Ex.P-26, but it is pertinent to note that he has not proved the entries in his evidence. He has just marked these two documents. Thus it is crystal clear that the contents<sup>of</sup>/Ex.P-25 and E.P-26 remain<sup>ed</sup> un-proved, and therefore, it cannot be said that after obtaining the amount of Rs.4,000/-, Smt Nagamani-PW 5, the accused though had issued certificates Ex.P-24 to her did not make the entries in the Sub Office daily Ex.P.25 and Daily Journal Ex.P.26.

P.Krishna Murthy-PW 7 has deposed that he had purchased National Saving Certificates worth Rs.2,400/- from the accused-respondent, who has received the amount.

case diary  
In his statement he has stated to have purchased the certificates through the Post man PW-4. Thus, his evidence is contradicted by his case Diary Statement that he has

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- 9 -

the same from Smt Saraswathidevi or her husband, Because there is no evidence that after receiving that amount he did not make entries in the cash book which has not seen the light of the day of the Court.

PW-1 has testified that in the stock register no entries were made for issuance of the National Savings Certificates to its purchasers correctly. But he has not produced the stock register nor proved it. He has also not specifically stated that <sup>of regarding</sup> the amounts received by selling certificates to PW-5, PW-7, PW-8, not the respondent accused had made relevant entries in the stock register.

From the aforementioned discussion of the evidence on record agreeing with the lower Court, I reach the conclusion that the prosecution has failed to establish the guilt of the respondent-accused beyond reasonable doubt and therefore no fault can be found out with the judgment of acquittal.

In result, I see no merit in this appeal and therefore it is dismissed.

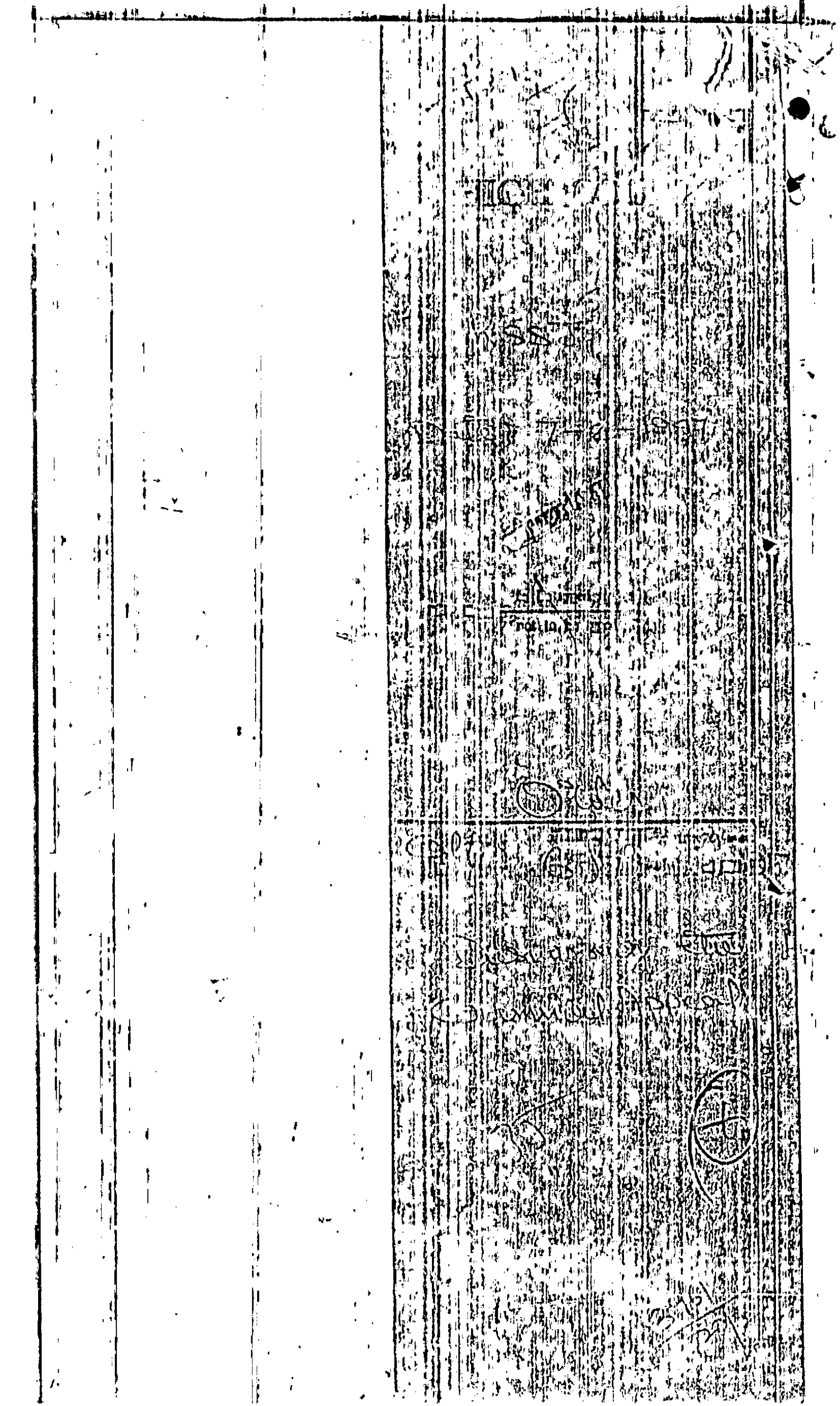
Sd/- D.V. Subrahmanyam  
ASSISTANT REGISTRAR  
High Court of Andhra Pradesh  
HYDERABAD.

TRUE COPY

SECTION OFFICER  
CURRENT SECTION  
HIGH COURT OF A.P.

kk

P 10  
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- To
1. The Judicial Magistrate of 1st Class,  
Madhul. Rangareddy District,  
(with records).
  2. The Sessions Judge, Rangareddy  
District at Secunderabad, Hyderabad.
  3. 2 CCs to the Public Prosecutor, High Court  
of A.P., Hyderabad (D.U.T.).
  4. One C.D. Copy.

8/11/80  
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Sd/- M. P. Nallababu A.

Th

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH.

O.A. REGD. NO 2589/97

Date: 20.8.97

To Mr. S. Ramakrishna Rao, Adv.

Sir,

I am to request you to rectify the defects mentioned below in your application within 14 days from the date of issue of this letter, failing which your application will not be registered and action under Rule 5 (4) will follow.

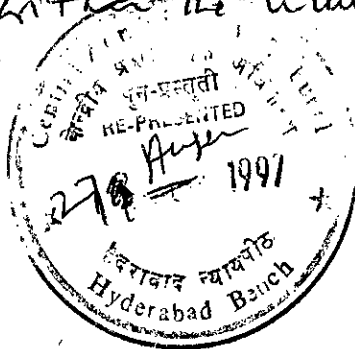
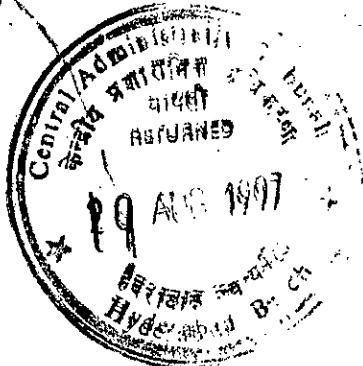
~~To explain the delay in filing the OA~~

As per question paper impugned Order dt 27.2.90,

how the OA is intine ?

Under Para 6 (Details of Remedies exhausted) it is mentioned that the Hon'ble High Court of A.P. had passed order on 7-2-1997. Therefore, a fresh cause of action arose only from 7-2-1997. Hence the OA is within the limitation.

See  
27/8/97



*[Signature]*  
DEPUTY REGISTRAR (JUDL)

19/8/97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH  
AT HYDERABAD

O.A. No. 1251 of 1997

Between :

B. Laxman Rao

...

Applicant

And

Senior Superintendent of  
Post Offices,  
Secunderabad; and  
3 others

...

Respondents

REPLY STATEMENT FILED ON BEHALF OF RESPONDENTS

I, H. Seshagiri Rao, s/o Narasimha Murthy, aged about 56 years, working as Assistant Postmaster-General (S & V) in the office of the Chief Postmaster-General, A.P. Circle, Hyderabad; do hereby solemnly and sincerely state on oath as follows :

1. I am working as Assistant Postmaster-General, (Staff & Vigilance) in the office of the Respondent-3 and as such I am well acquainted with the facts of the case.
2. I have read the original application filed by the above named applicant and I deny several material allegations made therein except those that are specifically admitted herein.
3. Before traversing in detail several material allegations, averments and contentions made therein, I beg to submit as follows :

  
ATTESTOR

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

  
DEPONENT

Asst. Postmaster General (S. & V.)  
O/o. Chief Postmaster General  
A.P. Circle, Hyderabad-500 001.



4. The applicant Sri B. Laxman Rao, while working as S.P.M., Medchal S.O. a/w Trimulgherry H.O., has committed NSC/SB frauds and he was proceeded against under Rule-14 of CCS(CCA) Rules 1965 for the irregularities committed by him and he was dismissed from service vide Memo. No. RDH/ST/20-5/1/88, dt. 18.7.88 of then Director of Postal Services, Hyderabad Northern Region, Hyderabad-1. ~~The copy of the O.A. filed by the said Sri B. Laxman Rao in the C.A.T., Hyderabad Bench, received with Circle Office letter No. LC-251/97 dated 25.9.97 is enclosed for favour of disposal.~~

5. In reply to Para-1 : It is submitted that it is a fact that applicant was imposed with punishment of dismissal from service vide Memo. No. RDH/ST/20-5/1/88, dated 18.7.88 of the then Director of Postal Services, Hyderabad Northern Region, Hyderabad-1 (copy of the Proceedings enclosed as A-1) as a result of the proceedings under Rule-14 of CCS (CCA) Rules 1965 for SB/NSC frauds for Rs. 24,900/- committed by him while working as S.P.M., Medchal S.O.

6. In reply to Paras 2 & 3 : Needs no comments.

7. In reply to Para-4(1) : It is submitted that it is a fact that he has worked as Postal Assistant in Secunderabad Division as stated by the official. While working as S.P.M. at Medchal S.O. he has committed the following frauds / irregularities which required disciplinary action under the Departmental rules.

ATTESTOR

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Assistant Accounts Officer (Budget)  
मुख्य पोस्टमास्टर जनरल का कार्यालय  
Office of the Chief Postmaster General,  
आंध्र प्रदेश, वरिष्ठ, हैदराबाद-500 001.  
A.P. CIRCLE, HYDERABAD-500 001.

DEPONENT

Asst. Postmaster General (S. & V.)  
O/o. Chief Postmaster General,  
A.P. Circle Hyderabad-500 001.

(i) A deposit of Rs. 4,500/- into SB Account No. 375763 dated 21.12.86 was not accounted for and failed to account for withdrawal of Rs. 1,000/- dt. 16.6.86 from account No. 375763.

ii) Issued N.S.Cs worth Rs. 17,400/- and failed to account for the amounts into Government accounts.

(iii) Found responsible for fraudulent withdrawal of Rs. 2,500/- from S.B. Account No. 375829, dt. 11.2.96 and Rs. 1,500/- dt. 10.4.96 from S.B. Account No. 375829.

The applicant was issued with Memo. of charges for the above said irregularities vide Memo. No. F4/2/86-87, dt. 19.12.86.

8. In reply to Para-4(2) : It is submitted that in the proceedings the Inquiry Authority found the applicant guilty of charges and the articles of charge were held as proved. The applicant made good the amount of loss of Rs. 24,900/- on account of the fraud irregularities committed by him voluntarily on Rs. 18,000/- on 17.9.86 and Rs. 6,900/- on 23.9.86. Medchal S.O. is a 'B' Class Post Office with one S.P.M. and one P.A. In the absence of one of the officials either on account of leave or otherwise, the other official on duty has to attend the duties of absentee as the service to the customers at the counter cannot be disturbed/inconvenienced. The S.P.M. has to attend the duties of the P.A. when the P.A. is not present i.e. the S.P.M. has to attend the duties of P.A. in his (P.A) absence. The argument of

ATTESTOR

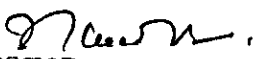
सहायक लेखा अधिकारी (बजट)  
Assistant Accounts Officer (Budget)  
मुख्य पोस्टमास्टर जनरल का कार्यालय  
Office of the Chief Postmaster General,  
आ. व. परिसंकेत, हैदराबाद-500 001.  
A.P. CIRCLE, HYDERABAD-500 001.


DEPONENT

Asst. Postmaster General (S. & V.)  
O/o. Chief Postmaster General,  
A.P. Circle, Hyderabad-500 001.

the applicant that the P.A. only has to attend the transactions is not acceptable as the documentary and oral evidence holds that the applicant himself handled the transactions but not the P.A.

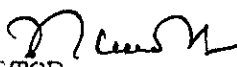
9. In reply to Para-4(3) : It is submitted that the action was initiated against the applicant as per rules and the I.O. held the enquiry as per the rules. The I.O. has notified all the sittings of the enquiry held to the applicant and he was asked to attend the enquiry with his Assisting Government Servant at every stage and the I.O. also posted the proceedings to him (applicant) from time to time and he was in receipt of all the communications. It was for the applicant to utilise the opportunity provided and to defend the case and it was open to him to disprove the articles of charge. But he did not attend the hearings held by the I.O. and he did not nominate A.G.S. to assist him in defending the case on his behalf. On the plea that the case is reported to Police and that the Departmental proceedings cannot be held until the completion of Police enquiries. It is felt that the applicant harps on the provisions of Rule-80 of P & T Man. Vol. III. In this case, the charge sheet was filed by the Station House Officer, Medchal in the J.F.C.M. Court under C.C.No. 218/92 under Sec. 409, 420 and 468 of I.P.C. whereas the Departmental allegations were for failure to observe the provisions of Departmental rules laid down in the Postal Manuals. The evidence adduced during the Departmental enquiry closed much prior to the prosecution case concerned, has no effect on the evidence in the

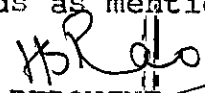
  
**ATTESTOR**  
 सहायक लेखा अधिकारी (बजट)  
 Assistant Accounts Officer (Budget)  
 मुख्य पोस्टमास्टर जनरल का कार्यालय  
 Office of the Chief Postmaster General,  
 जं. व. परिमंडल, हैदराबाद-500 001.  
 A.P. CIRCLE, HYDERABAD-500 001.

  
**DEPONENT**  
 Asst. Postmaster General (S. & V.)  
 O/o. Chief Postmaster General,  
 A.P. Circle Hyderabad-500 001.

criminal case. In fact the Inquiry Officer in the disciplinary case gave every opportunity to defend but the applicant failed to avail /utilise the opportunities. The procedure followed in the departmental proceedings is quite different from the criminal trial and the main criteria to judge is the preponderance of probability, which is also upheld by many courts. His silence during the period of mandatory enquiries held showed that he has no defence at that time and he now wants to magnify the issue and take shelter under the acquittal judgement, which C.G.S.C. opined that the lower court did not rely on the documentary evidence. The contention of the applicant that he had no information about the sittings of the enquiry is not correct as the I.O. notified all the sittings to him and extended all the reasonable opportunities from time to time as could be seen from the I.O's report (enclosed as A-II).

10. In reply to Para-4(4) : It is submitted that as submitted above, Medchal S.O. is 'B' Class Post Office with one S.P.M. and one Postal Assistant. As argued by the applicant the SPM is not barred from attending the counter duties of postal assistant. The applicant being the SPM was to attend the transactions in the absence of the P.A. It is proved from the evidence that the applicant himself accepted the amounts of S.B. deposits and issued NSCs without accounting for the amount on the respective dates and that responsible for the withdrawal involved in the case and failed to account for the amounts and transactions into the accounts of Government. In this case, the applicant alone has committed SB/NSC frauds as mentioned

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

  
**DEPONENT**  
 Asst. Postmaster General (S. & V.)  
 O/o. Chief Postmaster General,  
 A.P. Circle Hyderabad-500 001.

above. The handwritings of the applicant in all the records such as pass books, NSCs and other clearly proves the involvement of the applicant alone in the case. The question of proceedings against the P.A. does not arise since the involvement of P.A. along with the applicant is not proved. The action under Rule-18 is not warranted. The applicant argues that he was alone given Memo. of charges and says that he was acquitted on the ground that the SB/NSC work is that of P.A. and not the applicant. The argument is not acceptable as the evidence clearly proved that the applicant alone was responsible for not accounting for the transactions as discussed above.

11. In reply to Para-4(5) : It is submitted that as submitted above, the documentary and oral evidence examined prove that the applicant alone handled the said SB/NSC transactions but not the P.A. Enquiries were correctly made with the P.A. during the preliminary investigation and found that the involvement of P.A. as witness for examination from his side and to defend the case but he did not do so. He did not utilise the opportunities provided by the Inquiry Officer. The argument of the applicant that he cannot be held responsible for the frauds committed by the P.A. is not acceptable as there was no involvement of P.A. as adduced by the evidence. As stated by the official, the appeal submitted by him against the orders of punishment was rejected by the Chief Postmaster-General, A.P. Circle, Hyderabad vide letter : STA/13-1/1/89 dated 21.2.90. The Petition submitted by him to the Member (Personnel) was rejected vide No. 1-84/95-VP., dated 22.9.95.

ATTESTOR

सहायक लेखा अधिकारी (बजट)

Assistant Accounts Officer (Budget)

मुख्य पोस्टमास्टर जनरल का कार्यालय

Office of the Chief Postmaster General,

जी. व. बरिगडल, हैदराबाद-500 001.

A.P. CIRCLE, HYDERABAD-500 001.

DEPONENT

Asst. Postmaster General (S. & V.)

O/o. Chief Postmaster General

A.P. Circle, Hyderabad-500 001.

The Hon'ble J.F.C.M. Court observed that the prosecution has not presented the case properly and that expressed the following while pronouncing the judgement on 16.1.95 (A-5).

(a) The accused did not adduce any evidence on his behalf (Page No. 6 of the judgement).

(b) The prosecution has not adduced the positive evidence that on 21.2.86 the depositor has deposited Rs. 4,500/- and withdraw Rs. 1,000/- on 16.6.86 (Page No. 12).

Submission :- The Hon'ble Court did not take cognizance of the entries in the pass book, which is the record for the depositor and which were made by the own handwritings of the accused, supported by the date stamp impressions of the Post Office.

(c) There was no entry in the Post Office records (Page No. 12).

Submission :- The entries in the pass book confirms that Rs. 4,500/- were deposited into SB A/C 375763 on 21.2.1986 and gave withdrawal Rs. 1,000/- on 16.6.1986. Missing of relative entries in the other Post Office records indicates that the transactions were not accounted for and that the amount was defrauded/misappropriated.

(d) There is no acceptable evidence to show that it is the accused, who made the entries in the pass book (Ex. 11 - Page No. 13).

Submission :- The entries in the pass book relating to the transactions are in the handwriting of the accused. This

ATTESTOR

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Office of the Chief Postmaster General,  
को. व. परिमंडल, हैदराबाद-500 001.  
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DEPONENT  
Asst. Postmaster General (S. & V.)  
O/o. C. ... r General  
A.P. Circle Hyderabad-500 001.

aspect was not examined in the prosecution. The receipt for the pass book (SB-28) issued by the accused to the depositor with higher balance as at credit (which indicates the amount of deposit Rs. 4,500/- dt. 21.2.86 has been included) shows the involvement of the accused (Receipt was prepared by the accused).

(e) PW-2 has clearly stated that there is no variance in the amounts deposited and withdrawn by him from his S.B. account.

Submission :-

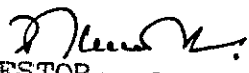
The PW-2 has not been examined critically by the prosecution. There was certainly variation between the balances mentioned in the pass book and the Head Office and Sub Office records. The abalances at credit prior to restoration of the amount was less by Rs. 3,500/-. This indicates that the PW-2 was not examined properly to find out the actual fact.


(f) Prosecution failed to do that the accused misappropriated an amount Rs. 3,500/- belonging to the SB A/c 375763 of PW-2 (Page-13).

Submission :-

The preponderance of probability is the main criterion to be examined in the Departmental proceedings which appears to have not been highlighted by the prosecution and not examined by the court.

(g) The preson who wrote the red enclosed signatures marked S1, S4 to S13 did not write the red enclosed signatures

  
**ATTESTOR**  
 सहायक लेखा अधिकारी (बजट)  
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**DEPONENT**  
 Asst. Postmaster General (S. & V.)  
 O/o. C.I.  
 A.P. Circle, Hyderabad-500 001.

marked Q1 to Q4 and that no ~~x~~ opinion can be given on the authorship of red enclosed signatures marked Q1 to Q4 (Page-15).

Submission :-

It is a fact that the signatures on the withdrawal forms (red enclosed) signatures marked Q1 to Q4 are not that of the depositor (PW-3). The withdrawals are not supported by the relative entries in the pass book concerned which proves that the amounts were not taken by the depositor (PW-3) but the other person about whom the accused, who handled the transaction can be able to tell.

(h) Accused went to his house at Secunderabad and came out with a packet and asked the PW-1 to come to Medchal PO along with him and that they went to Head Office, Secunderabad, where the investigation was going on and the accused showed them some blank certificates amounting to Rs. 24,000/- and also produced the other records like applications for purchase of NSCs and issue journals amounting to Rs. 17,000/- (Page 20&21).

Submission :-

The fact to be examined is that the accused was working as S.P.M., hatkesar S.O. during the time of investigation. The blank NSCs, the applications were the records of Medchal SO which the accused is not supposed to have their possession. This indicates clearly his involvement in the case. The prosecution has not highlighted the above facts in the proceedings.

ATTESTOR  
 सहायक वित्त अधिकारी (बजट)  
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 Office of the Chief Postmaster General,  
 ऑफिस व. परिसर, हैदराबाद-500 001.  
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(i) Accused admitted that he utilised the amount relating to sale of N.S.Cs (Page-21).

(j) Prosecution did not produce the stock register of N.S.Cs (Page-21).

Submission :-

It is felt a lacuna in the evidence proposed by the prosecution for examination in the case.

(k) (i) The statement of the PW-2 recorded by the PW-1 (Exp. 10) is taken as not substantive piece of evidence and that no reliance can be placed on that statement.

(k) (ii) Statement of the PW# 3 is not substantive piece of evidence and no relevance can be placed on the state (page-17).

(k) (iii) Statement of the accused can not be taken into account.

Submission :

They are the statements recorded from the accused/witnesses during the Departmental enquiries, but not during the investigation by Police. It is felt that the provisions of Rules prescribed for criminal proceedings in the Court of Law cannot be applied for the Departmental proceedings.

(1) Sale proceeds of ~~20,400~~ 24+40=64 NSCs for Rs.17,400/- credit not found in the PO records (Page-22).

Submission :

The Honourable Court observed that the NSCs were issued but

  
ATTESTOR

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Assistant Accounts Officer (Budget)  
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O/o. Chief Postmaster General,  
A.P. Circle Hyderabad-500 001.


the credit of their value not found in the P.O. records which clearly proves that the value of the said NSCs was not account for on the dates of their issues.


(m) Prosecution has not examined the PA (Page-23)

Submission :

It is felt that a lacuna in the evidence proposed by the prosecution, which Hon'ble Court also observed. It is however, to submit the enquiries were correctly made with the P.A. during the preliminary enquiries and found no involvement of the P.A. in the case. The copy of the statement recorded from the P.A. is enclosed.

11. In reply to Para-5(1) : It is submitted that the evidence adduced that the applicant was responsible for the transactions involved in the case and for non-credit of the amounts. It was decided to hold departmental proceedings in the case simultaneously with the prosecution as envisaged in Note (iii) below Rule-80 of P & T Man. Vol. III. It is submitted that the prosecution has not presented the case properly which was also observed by the Hon'ble Court in para 6, 7 and 8 of the judgement and as submitted in the foresaid paras, the documentary evidence produced is not taken into cognizance. The applicant cannot take such acquittal as exoneration from the allegations. The applicant was found liable for the action under CCS (Conduct) Rules 1964 for the irregularities committed by him. Hence he was proceeded against and was punished.

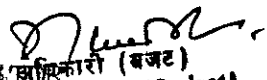
  
**ATTESTOR**  
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 Assistant Accounts Officer (Budget)  
 मुख्य पोस्टमास्टर जनरल का कार्यालय  
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 जी ड. परिसर, हैदराबाद-500 001.  
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**DEPONENT**  
 Asst. Postmaster General (S. & V.)  
 O/o. Chief Postmaster General  
 A.P. Circle Hyderabad-500 001.

12. In reply to Para-5(2) : It is submitted that it is a fact that there was fraud in SB/NSC at Medchal SO which the applicant also did not deny. The handwritings of the applicant in the pass books and also on the NSCs and other relative records clearly proves that the applicant directly handled the transactions involved in the frauds without the knowledge of the P.A. In such case, the question of action against the P.A. does not arise. It was open to the applicant to propose the P.A. as witness for examination from his side, in case the evidence of P.A. found relevant and he should have disproved the charges. But he did not do so.

As submitted the S.P.M. of the double-handed post office can handle the transactions of counter in the absence of P.A. The contention of the applicant that he cannot accept the SB transactions and NSC collections is not acceptable.

13. In reply to Para-5(3) : It is submitted that Departmental allegations for failure to observe the provisions of Departmental rules laid down in the Postal Manuals. The main criterion in the Departmental proceedings is to judge the preponderance of probability. The S.H.O. Medchal filed charge sheet in JFCM Court, Medchal, R.R. Dist. under 409, 420 and 468 of IPO. The procedure followed in the Departmental ~~enquiry~~ proceedings is quite different from the criminal trial. The Department is not barred from holding departmental proceedings simultaneously. Further the evidence adduced during the Departmental enquiries was closed much prior to the prosecution case. It has, therefore no effect on the evidence in criminal case.

  
सहायक लेखा अधिकारी (बजट)  
Assistant Accounts Officer (Budget)  
मुख्य पोस्टमास्टर जनरल का कार्यालय  
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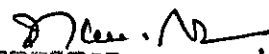
  
DEPENDENT  
Asst. Postmaster General (S. & V.)  
O/o. Chief Postmaster General  
A.P. Circle Hyderabad-500 001.


14. In reply to Para-5(4) : It is submitted that it is a fact that the applicant submitted Petition to Member (P) and the same was rejected (copy of letter enclosed as R - ).

14. In reply to Para - 5(4) : It is submitted that the applicant having joined the Department as P.A. should have discharged his duties as prescribed by the Departmental rules. He is liable for action for irregularities and violation of the rules prescribed. As pleaded by the applicant his social status (claim as S.C) cannot be claimed as privilege for committing the irregularities. The official was liable for his posting in any of the offices in the postal division, in which he is working according to the exigencies of the service. He should have got the grievances redressed instead of resorting to the frauds/irregularities.

15. In reply to Para-6 : It is submitted that it is a fact that the applicant submitted the appeal on dt. 18.7.90 against the orders of dismissal from service to the Chief Postmaster-General, A.P. Circle, Hyderabad and the same was rejected by the appellate authority vide letter dated 27.2.90. The petition submitted by the applicant to the Member (P), Postal Services Board was rejected vide orders dt. 22.9.95.

16. In reply to Paras - 7 to 12 : Needs no comments.

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

  
**DEPONENT**  
 Asst. Postmaster General (S. & V.)  
 O/o. Chief Postmaster General  
 A.P. Circle, Hyderabad-500 001.

In view of the facts stated supra, it is submitted that the applicant has not made out a case for consideration and it is, therefore, prayed that this Honourable Tribunal may be pleased to dismiss the O.A.

  
DEPONENT

Asst. Postmaster General (S. & V.)  
O/o. Chief Postmaster General,  
A.P. Circle, Hyderabad-500 001.

Sworn and signed before me  
on this the 19<sup>th</sup> day of  
March, 1998 at Hyderabad.

Before Me

  
ATTESTOR

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

BRM\*

420 discovery was made by him & my  
some times he took his work  
he used to ask me to attend  
to saving bank work at The Bank  
on the day my going I ask him  
to about distributing the work  
to son He told me there was no  
memo of distribution of work  
and asked me to attend to  
it. When I reached home  
work I did not ask him  
about distributing work saying  
he did not also tell me whether  
my work was received or not  
I did not complain to suspect  
master that work given to me  
was heavy. I do not know that  
Roope & Burke in Dabell had  
work that Clark should attend  
to saving bank work and  
work should be done by son  
in morning get office soon  
attending to SB's account up  
Sub account N.S.C. I have up  
N.S.C. Disburse SB deposit  
SB W/D Accounts A/c Telling  
I was not signing at Joint  
Confidant in S.O. Daily A/C  
because Sub point master  
asked me to bring it I was  
bring in Daily S.O. A/C as instructed

Annexure A-2

Date 15/9/86

62

State was not given by Syed. Sabir Ali  
postal assistant mentioned so  
before the report of post office  
of Secundganj on 13.9.86

My Name is Syed. Sabir Ali 870  
Syed. Bano Ali my age is  
38 years. Service in the  
Department 14 years. Service  
as P.O. is 6 years. I joined  
P.O. at Muzaffargarh during  
July of August 1983. Before  
going at Muzaffargarh I was  
post office for about 4 months  
before that I worked  
at S.P.O. Bano Ali for 3 years  
the B. L. was working at S.P.O. Muzaffargarh  
Througout. The present  
S.P.O. G. L. was managing  
joined on 25.7.86. The S.O.  
post master asked me to  
attend to the 1000 100  
sold piece of 1000  
work at the P.O. of Thab/1000  
27th. Post office G.M.B. Hassan  
Khan. Public Administration  
I was at the office to deal and  
keeping parcels booking parcel  
Delivery & also Delivery Booking  
of V.H. Delivery with booking

19  $\frac{11}{83}$  29  $\frac{2}{84}$  3.2  $\frac{11}{84}$  12  $\frac{2}{85}$

30  $\frac{7}{85}$  3.3  $\frac{2}{86}$  were in her custody me

The Entries of public also affected  
by me the entries of entry  
of the Leases were also made  
102 the SD of all entries to  
convinced in Leases not

NO 263 of A/C NO 275829 1/1/12

The Entries of the entries

of 12/12 of 11,520 dated 20.7.83

was made by me I signed Mr. Arthur

Clare White. The Lexman in

entry of by Sub post master

The Entries of Leases were 259 A/C

NO 375763 dated 7/10/84, 25.2.84

144-84, 10 27.7-85 (14) Entries

have been made by me on

page 33 Volume 1 26-11-85 as being

posted by me I never

suspected that Sir L. Lexman

any 1 done any S. B. F. Bond

During Feb 1985. No. 7 of 1985

them are taken was given to

to D. C. Staff the Lexman

took Certificate to Home

and preparing them to also

while the Sir Lexman let him

let I presented the documents

as



[illegible]







No: 1-84/95-VP  
Government of India  
Department of Post  
Dak Bhawan, Sansad Marg,  
New Delhi-110 001



## ORDER

Dated : 22 SEP 1995

Sh.B.Laxman Rao, Ex-LSG Postal Assistant, Secunderabad HO has submitted a petition dt 5.4.95, against the penalty of dismissal from service imposed on him by DPS, Northern Region, Hyderabad, the disciplinary authority vide memo dtd. 18.7.88, and upheld by the Chief Postmaster General, A.P.Circle, Hyderabad, the appellate authority, vide memo dtd. 27.2.90.

2. At the outset, it is seen that the ex-official has preferred his petition after a gap of more than 5 years from the date of the appellate order. Though there is no time limit prescribed for preferring a revision petition, a person wanting to prefer a petition must do so within a reasonable time and such reasonable time cannot be more than 6 months. Any delay beyond that would be unreasonable. The delay of more than 5 years in the instant case, therefore, is too unreasonable to justify consideration of the petition. As regards the acquittal of the petitioner in the criminal case against him, it may be mentioned that the same has got no bearing on the disciplinary case against him, which was for violation of departmental rules. The petitioner therefore, deserves to be rejected on the ground that it is being preferred after unreasonable delay.

3. In vi w of the foregoing, I do not find any justification to entertain the petition at this inordinately delayed stage.

4. I accordingly, hereby reject the petition.

*A. V. Rao*  
(A.V. RAO) 21/5/95  
MEMBER(P)

POSTAL SERVICES BOARD

Sh.B.Laxman Rao,  
Ex-LSG, PA,  
Secunderabad HO,  
House No. 6-7-57/52,  
Bansilapet, Secunderabad

(Through CPMG, A.P.Circle, Hyderabad).

Regd.

Copy to The Chief Postmaster General, Andhra Pradesh Circle, Hyderabad with reference to his office letter No. ST/14-7/95 dtd. 18.8.95. The enclosed order may kindly be got delivered to the ex-official under receipt. A spare copy of the order is also enclosed.

*M.S. Mahipaul*  
(M.S. MAHIPAUL)  
DESK OFFICER (VP)

..2..

also mentioned that in departmental proceedings, a charged officer is never compelled to make a statement. Therefore, Article 20(3) of the Constitution does not come into operation. Thus, a charged official, against whom departmental action has been initiated, cannot invoke the protection of the said Article. Further, the departmental proceedings, a charged officer is never asked to make self-incriminating statements. He is only expected to explain his defence. Therefore, the contention of the appellant that holding of a Departmental inquiry while a criminal case is pending would amount to infringement of Article 20(3) of the Constitution of India is not found acceptable.

The appellant was provided all reasonable opportunities to defend his case against the charges levelled against him. Having failed to make use of such chances, the appellant now seeks to get the punishment order set aside on the plea unacceptable that the Departmental Inquiry preceded the prosecution. I have already discussed this point and held that the contention of the appellant is incorrect. He has not come up with any new facts in support of his contention nor has he discussed the charges levelled against him in the Rule-14 Inquiry. I do not, therefore, find any reason to intervene in the matter or intercede on his behalf. The order of dismissal issued by the Disciplinary authority shall, therefore, have to stand. The appeal is, therefore, rejected.

(H. RAJENDRA PRASAD)  
Chief Postmaster-General  
A.P. Circle, Hyd.

Copy to:

1. The appellant through the Sr. Postmaster, SECUNDERABAD  
H.O. 500 503
2. The Director of Postal Services, A.P. Northern Region  
Hyderabad-500 501
3. The Sr. Supdt. of Post Offices, Secunderabad Divn.  
Secunderabad.
4. The Sr. Postmaster, Secunderabad 500 502
5. File. 6. Spare.

67

Office of the Chief B.M.O., A.P. Circle, Hyderabad-500 001  
No. STA/13-1/1/88 dated at Hyd., the 21.8.1990

Read the following:

Memo No. RDH/ST/20-5/1/88 dated 18.7.88 of the  
Director of Postal Services, A.P. Northern Region,  
Hyderabad-500 001.

2. Appeal dated 18.7.88 of Sri B. Laxman Rao, formerly  
LSC PA, Secunderabad H.O.
3. Other connected records.

ORDER

This is an appeal from Sri B. Laxman Rao, formerly  
LSC PA, Secunderabad H.O., against the orders of his  
frc. service ordered by the DPS AP HR, Hydera-  
bad vide Memo No. RDH/ST/20-5/1/88 dated 18.7.88.

The appellant was proceeded against under Rule-14  
of the CCS (CCA) Rules, 1965 for commission of fraud.  
Savings Bank account and Cash Certificates. The  
appellant did not participate in the inquiry and the  
inquiry was, therefore, conducted ex-parte. The  
disciplinary authority based its decision on the result of the  
from service basis. In the appeal, I find that no mention has  
been made about charges of misappropriation but the  
appellant relies heavily on technical aspects of the  
Rule-14 inquiry, being instituted while a  
case was pending trial. The official was given an  
opportunity to prove his innocence vis-a-vis the  
charges framed against him. The opportunity was not  
availed of by him.

I have carefully gone through the appeal.

The appellant submits that the inquiry report  
was not supplied to him in advance to enable him to  
submit his written brief to the disciplinary authority.  
In this context the judgment of Hon'ble C.A.T., Bombay  
is referred to. In the CCS (CCA) Rules, 1965, there  
is no mention or stipulation for the supply of the  
inquiry report in advance to the charged official and  
therefore such a course could not be adopted. The  
The decisions in C.A.T. are applicable to individual  
cases and cannot be generalized or applicable to all  
cases regardless of attendant circumstances of each  
case. Therefore, the appellant cannot demand a copy  
of the inquiry report as there was no provision at the  
time of holding the enquires into this case which  
made it incumbent to provide the inquiry report in  
advance.

The appellant mentions that the holding of a  
mental enquiry simultaneously when a disciplinary  
proceeding is contrary to the rules and infringes  
Article 20(3) of the Constitution of India. It may

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : AT HYDERABAD

O.A. No. 1251 of 1997

Between :

B. Laxman Rao .. Applicant

And

Senior Superintendent of  
Post Offices,  
Secunderabad; And  
3 others

Respondents



Filed on : 24-3-98

*Copy sent  
for signature  
24/3*

Filed by : N.V. Raghava Reddy,  
Addl. C.G.S.C.

*may be trial  
24/3/98*



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT: HYDERABAD

O.A. NO.1251 OF 1998

BETWEEN :

B. Lakshmana Rao,, S/o.B. Balaiah,  
aged about 48 years, Occ: Ex. SPM Medchal,  
R/o.6-7-57/42, Bansilalpet, Secunderabad.

.. APPLICANT

AND

1. Sr. Superintendent of Post Offices,  
Secunderabad.
2. Director, Postal Services,  
AP Northern Region, Hyderabad.
3. The Chief Postmaster General,  
A.P. Circle, Hyderabad.
4. Director General,  
Dept. of Posts and Secretary,  
Dept. of Posts, New Delhi.

.. RESPONDENTS

*Rejoinder*

REPLY STATEMENT FILED BY THE APPLICANT

I, B. Lakshmana Rao,, S/o.B. Balaiah, aged about 48 years, Occ: Ex. SPM Medchal, R/o.6-7-57/42, Bansilalpet, Secunderabad, do hereby solemnly and sincerely affirm and state on oath as follows :

1. I am the deponent herein and therefore well acquainted with the facts of the case.
2. Regarding para 4 of the counter I humbly submit that the respondents should not have spoken about the so called frauds. I was working as Sub-Postmaster assisted by a PA and as per department rules the PA has to do SB/NSC work and the SPM has only to supervise the work though the duty of transacting SB/NSC was entrusted to the PA. The department charge sheeted and dismissed me and prosecuted me where I was acquitted but the responsibility of the PA was never brought into account.
3. It is submitted that the contention that there was frauds has been disproved by my acquittal. Regarding para 7 it

*B. Lakshmana Rao*

is humbly submitted that frauds as alleged has not been proved and I alone cannot be blamed for any fraud.

4. In reply to para 8 it is humbly submitted that crediting some amount is no proof of being a criminal. In fact, all the credits were done undercourse. My contention was that as SPM I cannot deal directly with SB transaction since the rules prescribes that in double handed offices the PA should attend the SB transaction and the SPM would only supervise the same. The department says that the SPM will act also as PA if the PA is absent but the burden of responsibility to prove that the PA post was vacant is with the department and it has produced any such evidence.

5. In reply to para 9 I humbly submit that it is a fact that the respondents admitted that prosecution followed the departmental action. This means I had no option to boycott the departmental enquiry since I was facing a "criminal charge".

6. In reply to para 10 it is humbly submitted that no proof was produced that the PA did not accept the deposit. As far as misappropriation is concerned the acceptance of the amount is criterion and no evidence was produced that I accepted the deposit. The department has no answer as to why the PA entrusted with the duty of SB was not charge sheeted and why common inquiry was not held under rule 18 of CCS (CCA) rules. Regarding sub para (F) it is humbly submitted that misappropriation is a criminal offence and when I was charged with misappropriation the old rule 80 of P&T volume III was in existence and under that rule no action should have been taken against me until the criminal case is decided. It is really unfortunate the counter seeks to involve me and so I am unnecessarily being blamed.

Contd.....

B. Lakshminarayana

IN THE CENTRAL ADMINISTRATIVE  
TRIBUNAL: AT HYDERABAD

O.A. NO.1251 OF 1997

BETWEEN:

B.Laxmana Rao .. APPLICANT

AND

SSFO, Sec'bad & others  
RESPONDENTS



*Rejoinder*

REPLY STATEMENT FILED BY  
APPLICANT

*Recd  
29-6-98  
In NVR. Pochan  
Shankar*

FILED FOR: APPLICANT

FILED ON: June 1998

FILED BY:

SANKA RAMA KRISHNA RAO,  
ADVOCATE, 1-8-549/C, IIND FLOOR  
CHIKKADAPALLY, HYDERABAD-20.

COUNSEL FOR THE APPLICANT

7. My submission is that I was SPM and in double handed office the SPM cannot independently perform SB/NSC duties. My plea was that as SPM I cannot collect any amount from the investors and only counter PA could do it. My plea was that if there was any fraud in SB or NSC in my office the counter PA cannot be free from the frauds. But the department intentionally avoided production of Sri Sabirali the then PA Mechal as witness.

8. It is also submitted that in the criminal case against me PW 7 Krishnamurthy stated that he gave Rs.2400/- to Sri Swamy PW 4. This means there is no case of misappropriation on my part and the order of dismissal and rejection of appeal are invalid. In fact I was forced to make good a large amount but keeping in view that the only PA of the office was handling the SB transaction. No frauds would have taken place without his knowledge if he was involved in fraud there could not have been escape from holding common proceedings. The only fact that the SB PA was not charge sheeted was not produced as prosecution witness, has a lot to say about departmental prejudice against me especially I am dismissed from service and they who are entrusted with SB transactions were not even chargesheeted. Unfortunately the department manipulated the case against me without any evidence and as long as the person entrusted with the SB transaction is not called upon to appear before this Hon'ble Tribunal there is no case against me.

In view of the submissions made above, it is respectfully prayed that the Hon'ble Tribunal may be pleased to grant the reliefs prayed for in the OA in the interest of justice and be pleased to pass such other and further order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

Sworn and sign on  
this day of June, 1996  
at Hyderabad

ADVOCATE

HYDERABAD

DEPONENT

B. Lakshmaiah

DEPONENT

72

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 1251/97

Date of Order : 9.3.99

BETWEEN :

B.Lakshmana Rao

.. Applicant.

AND

1. Sr.Superintendent of Post Offices,  
Secunderabad.
2. Director, Postal Services,  
AP Northern Region, Hyderabad.
3. The Chief Post Master General,  
A.P.Circle, Hyderabad.
4. Director General,  
Dept. of Posts and Secretary,  
Dept. of Posts, New Delhi.

.. Respondents.

-----

Counsel for the Applicant

.. Mr.S.Ramakrishna Rao

Counsel for the Respondents

.. Mr.V.Rajeswara Rao

-----

CORAM :

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

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

-----

O R D E R

{ As per Hon'ble Shri B.S.Jai Parameshwar, Member (J) }

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Mr.S.Ramakrishna Rao, learned counsel for the  
applicant and Mr.V.Rajeswara Rao, learned standing  
counsel for the respondents.

2

.. 2 ..

2. The applicant <sup>while he</sup> was working as LSG PA at Secunderabad he was issued with a charge memo dated 19.12.86 by the Senior Superintendent of Post Offices, Secunderabad Division for certain irregularities. After conclusion of the disciplinary proceedings the disciplinary authority by its order dated 18.7.88 imposed the penalty of dismissal from service. Against the said penalty of dismissal the applicant submitted an appeal. The appellate authority by his proceedings dated 27.2.90 rejected the appeal and confirmed the punishment.

3. With regard to the misconduct alleged against the applicant the respondent authorities had filed a complaint to the Medchal Police Station. A case was registered in Crime No. 103/96. The police authorities had filed a charge sheet against the applicant in criminal case No. 218/92 before JMFC, the Court of Medchal.

4. It may be stated that the respondent authorities concluded the disciplinary proceedings even <sup>before</sup> the criminal proceedings <sup>could</sup> come to an end.

5. The Court JMFC, Medchal by its judgement dated 16.1.95 acquitted the applicant charges. The respondent authorities had filed an appeal in criminal appeal No. 697/95 before the Hon'ble High Court of A.P. The Hon'ble High Court of A.P. dismissed the criminal appeal 697/95 on 17.2.97. Thus the applicant was acquitted <sup>of</sup> ~~all~~ the charges <sup>framed</sup> against him.

R

.. 3 ..

6. After final disposal of the criminal case the applicant submitted his representation to the Member (Postal) to reconsider the punishment imposed on him in the disciplinary proceedings. The Member (Postal) by his proceedings dated 22.9.95 (A-4) disposed of the representation of the applicant purely on the point of limitation.

7. The applicant has filed this OA to set aside the punishment imposed by the 2nd respondent by his proceedings dated 18.7.88 as confirmed by R-3 in his order dated 27.2.90 and to direct the respondents to reinstate the applicant into service with all consequential benefits.

8. The main contention advanced by the applicant is that the respondent authority could have taken note of the conclusion of the criminal trial and consider<sup>ed</sup> to review the punishment imposed on him in the disciplinary proceedings.

9. The Member (Postal) has not adverted to this aspect of the matter and has disposed of the representation purely on the point of limitation.

10. The learned counsel for the respondents submits that Member (Postal) has considered the submission of the applicant and has formed an opinion that as regards the acquittal of the petitioner in the criminal case against him it may be mentioned as no bearing which was for violation of the departmental rules.



11. The Member (Postal) should have considered the charge framed against the applicant in the criminal case and the charge framed against him in the disciplinary proceedings and should have ascertained ~~and~~ whether there are any similarity in the ~~charge~~ and has quoted any bearing on the said misconduct. A very simplistic view has been taken without going into the depths of the case. It is seen from the reply of the Member (Postal) dated 22.9.95 that the case of the applicant was rejected on the sole ground of delay without considering the other points. Further the applicant had filed that appeal soon after the case was disposed of by the lower court way back in 4.4.95. However the respondent organisation had taken this case challenging the orders of the lower court by filing ~~Writ Petition~~ <sup>Criminal Appeal</sup> in the High Court of A.P. which was disposed of on 17.2.97. Hence this point also needs to be kept in mind before finalising the representation of the applicant by the Member (Postal). We feel it proper to reproduce the observations made by the Apex Court reported in 1995 (2) SLJ 89. (Deputy Director of Collegiate Education (Administration) Madras vs. S.Nagoor Meera)

The relevant portion is reproduced here under :-

R "8. The Tribunal seems to be of the opinion that until the appeal against the conviction is disposed of, action under clause (a) of the second proviso to Article 311(2) is not permissible. We see no basis or justification for the said view. The more appropriate course in all such cases is to take action under clause (a) of the second proviso to Article 31(2) once a government servant is convicted of a criminal charge and not to wait for the appeal or revision, as the case may be. If, however, the government servant-accused is acquitted on appeal or other proceeding, the order can always be revised and if the government servant is reinstated



he will be entitled to all the benefits to which he would have been entitled to had he continued in service. The other course of suggested viz. to wait till the appeal, revision and other remedies are over, would not be advisable since it would mean continuing in service a person who has been convicted of a serious offence by a criminal court. It should be remembered that the action under clause (a) of the second proviso to Article 311(2) will be taken only where the conduct which has led to his conviction is such that it deserves any of the three major punishments mentioned in Article 311(2). As held by this Court, in *Shankardass V. Union of India*, 1985(2)SCR 358:

"Clause (a) of the second proviso to Article 311(2) of the Constitution confers on the government the power to dismiss a person from service "on the ground of conduct which has led to his conviction on criminal charge". But that power like every other power has to be exercised fairly, justly and reasonably. Surely, the Constitution does not contemplate that a government servant who is convicted for parking his scooter in a no-parking area should be dismissed from service. He may perhaps not be entitled to be heard on the question of penalty since clause(a) of the second proviso to Article 311(2) makes the provisions ~~that~~ of that article inapplicable when a penalty is to be imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge. But the right to impose a penalty carries with it the duty to act justly".

12. The observations of the Hon'ble Supreme Court clearly shows that when a delinquent employee <sup>is</sup> acquitted then his case has to be reconsidered by the departmental authorities. In that view of the matter we feel that the Member (Postal) should have considered the representation of the applicant in proper perspective taking due note of the acquittal recorded by the DMFC and Hon'ble High Court of A.P.

13. Hence we issue the following directions :-

R-4 shall consider the representation of the applicant to review the punishment of dismissal imposed on the applicant in the disciplinary proceedings in the light of the acquittal recorded by the Hon'ble High Court of A.P.

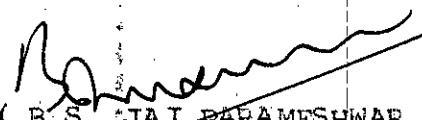
2

.. 6 ..

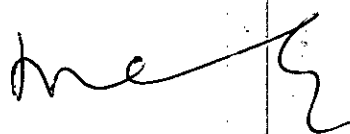
14. The case should not be dismissed on account of delay only.

15. Time for compliance is 3 months from the date of receipt of a copy of this order.


16. The OA is ordered accordingly. No costs.

  
( B.S. JAI PARAMESHWAR )  
Member (Judl.)

9.3.99

  
( R. RANGARAJAN )  
Member (Adm.)

Dated : 9th March, 1999  
( Dictated in Open Court )

  
16.3.99

sd

Copy to:

1. HDHND
2. HHRA M(A)
3. HDSJP M(3)
4. D.R. (A)
5. SPARE

1st and 11nd Court.

Checked by  
Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR:  
VICE - CHAIRMAN

THE HON'BLE H. RAJENDRA PRASAD  
MEMBER (A)

THE HON'BLE R. RANGARAJAN  
MEMBER (A)

THE HON'BLE MR. B.S. JAI PARAMESHWAR:  
MEMBER (3)

DATED: 9.3.99

ORDER/JUDGMENT

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

IN

O.A.NO : 1251/97

~~ADMITTED AND INTERIM DIRECTIONS  
ISSUED.~~

~~ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

(9 copies)

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण / DESPATCH
23 MAR 1999
हैदराबाद न्यायपीठ HYDERABAD BENCH

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD,

MA.NO 506/1999

IN

OA.NO. 1251/97

Between

Date: 8-7-99

1. The Sr.Suptd of post offices  
Sec'bad.
2. The Director, Postal Services  
A.P.Northern Region, Hyderabad.
3. The Chief Postmaster-General  
A.P.Circle, Hyderabad.
4. The Director General  
Dept of posts and Secretary  
Dept of posts New Delhi.

...Applicants:

And

B.Lakshmana Rao

...Respondents

Counsel for the applicants

...V.Rajeshwar arao, Addl CGSC

Counsel for the Respondent

...S.Ramakrishnarao

CORAM:

THE HON'BLE MR.R. RANGARAJAN : MEMBER : ( ADMN )

THE HON'BLE MR.B.S. JAI PARAMESHWAR : (JUDL) MEMBER

\*\*\*\*\*

THE TRIBUNAL MADE THE FOLLOWING ORDERS:

Heard Mr.V.Rajeshwararao, for the applicants in the MA  
and Mr.S.Ramakrishnarao, for the respondent.

We do not see any worthwhile reason for extending the  
time. However, the time is extended upto 10-8-99. No further  
extension of time will be given.

  
Section Officer.

COPY TO:-

1. HDHMD
2. HRRP M(A)
3. HBSOP M(J)
4. D.R. (A)
5. SPARE

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH, HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR  
VICE - CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD  
MEMBER ( ADMN )

THE HON'BLE MR. R. RANGARAJAN  
MEMBER ( ADMN )

THE HON'BLE MR. D.S. JAI PARAMESHWAR  
MEMBER ( JUDL )

ORDER. Date. 8-7-99

ORDER / JUDGMENT

MA./RA./CP.NO  
IN  
DA.NO.

506/99

1251/97

ADMITTED AND INTERIM DIRECTIONS  
ISSUED.

ALLOWED.

C.P. CLOSED

R.A. CLOSED.

D.A. CLOSED

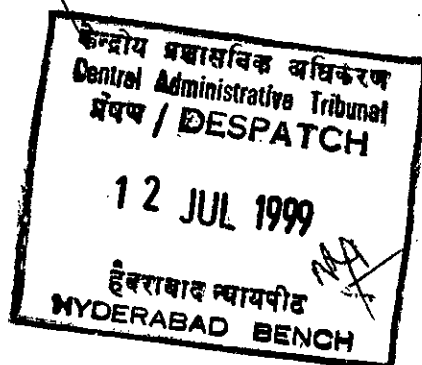
DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

MA. No.673 of 1999  
in  
OA. No.1251 of 1997

Between:

Dated:20.8.99

1. The Senior Superintendent of Post Offices, Secunderabad.
2. The Director, Postal Services, A.P.Northern Region, Hyderabad.
3. The Chief Postmaster General, A.P.Circle, Hyderabad.
4. The Director General, Department of Posts and Secretary, Dept. of Posts, New Delhi.

.. Applicants/Respondents

And

B.Lakshmana Rao

.. Respondent/Applicant

Counsel for the Applicants : Mr.V.Rajeswara Rao

Counsel for the Respondent : Mr.S.Ramakrishna Rao

CORAM:

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

THE HON'BLE MR. B.S.JAI PARAMESWAR : MEMBER (J)

\* \* \*

THE TRIBUNAL MADE THE FOLLOWING ORDER:

Heard Mr.V.Rajeswara Rao for the applicants in the MA and Mr.S.Ramakrishna Rao for the Respondent.

The Judgement in the OA directs R-4 in the OA to dispose of the representation of the applicants. Now it is stated that the Member Personnel is appropriate authority for disposing of the representation of the applicants. Since the Member Personnel was not a party in the OA it was directed that R-4 should dispose of the representation. However if Member Personnel is the appropriate authority to dispose of the representation he may do so in accordance with the rules.

The MA is disposed of. No costs.

*[Signature]*  
Section Officer

Srr

CC  
1st AND II nd COURT

COPY TO:-

1. HDHND
2. HRRN M ( A )
3. HBSJP M ( J )
4. D.R. ( A )
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : HYDERABAD:

THE HON'BLE MR. JUSTICE D.H. NASIR  
VICE - CHAIRMAN  
THE HON'BLE MR. R. RANGARAJAN:  
MEMBER ( ADMN )

THE HON'BLE MR. B.S. JAI PARAMESHWAR  
MEMBER ( JUDL )

\*\*\*\*

ORDER DATE. 20/8/99

MA/RATER NO 673/99  
IN  
CA. NO. 1251/97

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

O.A. CLOSED

MA-13  
DISPOSED OF WITH DIRECTIONS

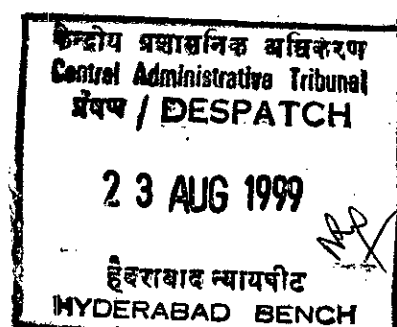
DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

3 copies



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH  
AT HYDERABAD

M.A. No. 526 of 1999

In

O.A. No. 1251 of 1997

Between :

- 1) Sr. Supdt. of Post Offices,  
Secunderabad
- 2) Director, Postal Services,  
A.P. Northern Region, Hyderabad
- 3) The Chief Postmaster-General,  
A.P. Circle, Hyderabad
- 4) Director-General,  
Dept. of Posts and Secretary,  
Dept. of Posts, New Delhi

... Applicants/Respondents

And

B. Lakshmana Rao

... Respondent/Applicant

APPLICATION FOR EXTENSION OF TIME UNDER RULE-8<sup>(3)</sup> OF THE  
C.A.T. PROCEDURAL RULES<sup>(8)</sup>

For the reasons stated in the accompanying  
Affidavit, it is prayed that this Honourable Tribunal  
may be pleased to grant extension of time for 3 months  
upto 25.9.1999 in the interest of justice and pass such  
other order or orders as deemed necessary in the  
circumstances of the case.

Hyderabad, )

23.6.1999 )

) COUNSEL FOR THE APPLICANTS/RESPONDENTS

BRM\*



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH  
AT HYDERABAD

M.A. No. 526 of 1999

In

O.A. No. 1251 of 1997

Between :

- 1) Sr. Supdt. of Post Offices,  
Secunderabad
- 2) Director, Postal Services,  
A.P. Northern Region, Hyderabad
- 3) The Chief Postmaster-General,  
A.P. Circle, Hyderabad
- 4) Director-General,  
Dept. of Posts and Secretary,  
Dept. of Posts, New Delhi

... Applicants/Respondents

And

B. Lakshmana Rao

... Respondent/Applicant


A F F I D A V I T

I, H. Seshagiri Rao, s/o Narasimha Murthy,  
aged about 58 years, occupation : Government service,  
resident of Hyderabad; do hereby solemnly affirm and  
sincerely state as follows :

1. I am working as Assistant Postmaster-General  
(Staff & Vigilance) in the office of the Chief Postmaster-  
General, A.P. Circle, Hyderabad (Applicant/ Respondent-3  
herein). As such I am well acquainted with the facts  
and circumstances of the case. I am filing this Affidavit  
on behalf of the Respondents of the O.A. and I am duly  
authorised to do so.

  
ATTESTOR

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

  
DEPONENT  
Asst. Postmaster General (S & V)  
O/o Chief Postmaster General  
A.P. Circle, Hyderabad-500 001.

2. The Honourable Tribunal in its order dated 9.3.99 in O.A. No. 1251/97 issued the following direction :

"R-4 shall consider the representation of the applicant to review the punishment of dismissal imposed on the applicant in the disciplinary proceedings in the light of the acquittal recorded by the Hon'ble High Court of A.P".

The time for compliance is 3 months from the date of receipt of a copy of this order.

3. It is respectfully submitted that a copy of the Hon'ble Tribunal order dated 9.3.99 in O.A. No. 1251/97 was received on 26.3.99, and as such the time for compliance will be over by 25.6.99. On verification of the above case it is found that a representation from the ex-official has been received in the Postal Directorate on 31.3.99. The representation was received directly and without records of the Departmental disciplinary case, as also the records of the criminal case decided by the Court. The relevant records of the case have been called for and on their receipt the Member, Postal Services Board, shall consider the representation and pass necessary orders. In the above circumstances it will take some more time to finalise the case and as such the Respondent authorities has to seek a further time of 3 months from the Hon'ble Tribunal for implementing the above order.

  
ATTESTOR

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

  
DEPONENT

Asst. Postmaster General (S & V)  
O/o. Chief Postmaster General  
A.P. Circle, Hyderabad-500 001.

4. It is, therefore, prayed that this Honourable Tribunal may be pleased to extend the time for further 3 months i.e. upto 25.9.1999, in the interest of justice and pass such other order or orders as deemed necessary in the circumstances of the case.

*K. Rao*  
DEPONENT  
Asst. Postmaster General (S & V)  
O/o. Chief Postmaster General  
A.P. Circle, Hyderabad-500 001.

Solemnly affirmed and signed  
on this the 17th day of June  
1999 at Hyderabad before me.

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

BRM\*

2. The applicant <sup>while</sup> was working as LSG PA at Secunderabad he was issued with a charge memo dated 19.12.86 by the Senior Superintendent of Post Offices, Secunderabad Division for certain irregularities. After conclusion of the disciplinary proceedings the disciplinary authority by its order dated 18.7.88 imposed the penalty of dismissal from service. Against the said penalty of dismissal the applicant submitted an appeal. The appellate authority by his proceedings dated 27.2.90 rejected the appeal and confirmed the punishment.

3. With regard to the misconduct alleged against the applicant the respondent authorities had filed a complaint to the Medchal Police Station. A case was registered in Crime No. 103/96. The police authorities had filed a charge sheet against the applicant in criminal case No. 218/92 before JMFC, the Court of Medchal.

4. It may be stated that the respondent authorities concluded the disciplinary proceedings even <sup>before</sup> the criminal proceedings <sup>could</sup> come to an end.

5. The Court JMFC, Medchal by its judgement dated 16.1.95 acquitted the applicant charges. The respondent authorities had filed an appeal in criminal appeal No. 697/95 before the Hon'ble High Court of A.P. The Hon'ble High Court of A.P. dismissed the criminal appeal 697/95 on 17.2.97. Thus the applicant was acquitted <sup>of</sup> ~~all~~ the charges <sup>framed</sup> against him.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

- 251/97 O.A.No. 1251/97

26/3/99  
Date of Order : 9.3.99

BETWEEN :

B.Lakshmana Rao

.. Applicant.

AND

1. Sr. Superintendent of Post Offices,  
Secunderabad.
2. Director, Postal Services,  
AP Northern Region, Hyderabad.
3. The Chief Post Master General,  
A.P.Circle, Hyderabad.
4. Director General,  
Dept. of Posts and Secretary,  
Dept. of Posts, New Delhi.

.. Respondents.

Counsel for the Applicant

.. Mr.S.Ramakrishna Rao

Counsel for the Respondents

✓ .. Mr.V.Rajeswara Rao

CORAM :

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

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

O R D E R

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

Mr.S.Ramakrishna Rao, learned counsel for the  
applicant and Mr.V.Rajeswara Rao, learned standing  
counsel for the respondents.

2

11. The Member (Postal) should have considered the charge framed against the applicant in the criminal case and the charge framed against him in the disciplinary proceedings and should have ascertained ~~and~~ whether there are any similarity in the ~~charge~~ and has quoted any bearing on the said misconduct. A very simplistic view has been taken without going into the depths of the case. It is seen from the reply of the Member (Postal) dated 22.9.95 that the case of the applicant was rejected on the sole ground of delay without considering the other points. Further the applicant had filed that appeal soon after the case was disposed of by the lower court way back in 4.4.95. However the respondent organisation had taken this case challenging the orders of the lower court by filing <sup>Criminal Appeal</sup> ~~Writ Petition~~ in the High Court of A.P. which was disposed of on 17.2.97. Hence this point also needs to be kept in mind before finalising the representation of the applicant by the Member (Postal). We feel it proper to reproduce the observations made by the Apex Court reported in 1995 (2) SLJ 89. (Deputy Director of Collegiate Education (Administration) Madras vs. S.Nagoor Meera )

The relevant portion is reproduced here under :-

2 "8. The Tribunal seems to be of the opinion that until the appeal against the conviction is disposed of, action under clause (a) of the second proviso to Article 311(2) is not permissible. We see no basis or justification for the said view. The more appropriate course in all such cases is to take action under clause (a) of the second proviso to Article 31(2) once a government servant is convicted of a criminal charge and not to wait for the appeal or revision, as the case may be. If, however, the government servant-accused is acquitted on appeal or other proceeding, the order can always be revised and if the government servant is reinstated

6. After final disposal of the criminal case the applicant submitted his representation to the Member (Postal) to reconsider the punishment imposed on him in the disciplinary proceedings. The Member (Postal) by his proceedings dated 22.9.95 (A-4) disposed of the representation of the applicant purely on the point of limitation.

7. The applicant has filed this OA to set aside the punishment imposed by the 2nd respondent by his proceedings dated 18.7.88 as confirmed by R-3 in his order dated 27.2.90 and to direct the respondents to reinstate the applicant into service with all consequential benefits.

8. The main contention advanced by the applicant is that the respondent authority could have taken note of the conclusion of the criminal trial and consider<sup>ed</sup> to review the punishment imposed on him in the disciplinary proceedings.

9. The Member (Postal) has not adverted to this aspect of the matter and has disposed of the representation purely on the point of limitation.

10. The learned counsel for the respondents submits that Member (Postal) has considered the submission of the applicant and has formed an opinion that as regards the acquittal of the petitioner in the criminal case against him it may be mentioned as no bearing which was for violation of the departmental rules.

*R*

14. The case should not be dismissed on account of delay only.

15. Time for compliance is 3 months from the date of receipt of a copy of this order.

16. The OA is ordered accordingly. No costs.

प्रमाणित प्रति  
CERTIFIED TRUE COPY

कम संख्या  
CASE NUMBER ... O A 1251/57  
निर्णय दिनांक  
DATE OF ORDER ... 9.3.99  
प्रति उद्देश्य  
COPY MADE FOR ... 22 3.99  
*[Signature]*

State / District Officer  
Central Administrative Tribunal  
HYDERABAD BENCH.

V. Rajeshwar Rao



he will be entitled to all the benefits to which he would have been entitled to had he continued in service. The other course ~~of~~ suggested viz. to wait till the appeal, revision and other remedies are over, would not be advisable since it would mean continuing in service a person who has been convicted of a serious offence by a criminal court. It should be remembered that the action under clause (a) of the second proviso to Article 311(2) will be taken only where the conduct which has led to his conviction is such that it deserves any of the three major punishments mentioned in Article 311(2). As held by this Court, in Shankardass V. Union of India, 1985(2)SCR 358:

"Clause (a) of the second proviso to Article 311(2) of the Constitution confers on the government the power to dismiss a person from service "on the ground of conduct which has led to his conviction on criminal charge". But that power like every other power has to be exercised fairly, justly and reasonably. Surely, the Constitution does not contemplate that a government servant who is convicted for parking his scooter in a no-parking area should be dismissed from service. He may perhaps not be entitled to be heard on the question of penalty since clause(a) of the second proviso to Article 311(2) makes the provisions ~~that~~ of that article inapplicable when a penalty is to be imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge. But the right to impose a penalty carries with it the duty to act justly".

12. The observations of the Hon'ble Supreme Court clearly shows that when a delinquent employee <sup>is</sup> acquitted then his case has to be reconsidered by the departmental authorities. In that view of the matter we feel that the Member (Postal) should have considered the representation of the applicant in proper perspective taking due note of the acquittal recorded by the DMFC and Hon'ble High Court of A.P.

13. Hence we issue the following directions :-

R-4 shall consider the representation of the applicant to review the punishment of dismissal imposed on the applicant in the disciplinary proceedings in the light of the acquittal recorded by the Hon'ble High Court of A.P.

2

Reg:- Extension of Time

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : AT HYDERABAD

M.A. No. \_\_\_\_\_ of 1999

In

O.A. No. 1251 of 1997

Between :

Sr. Supdt. of Post Offices  
Secunderabad &  
3 others

... Applicants/Respondents

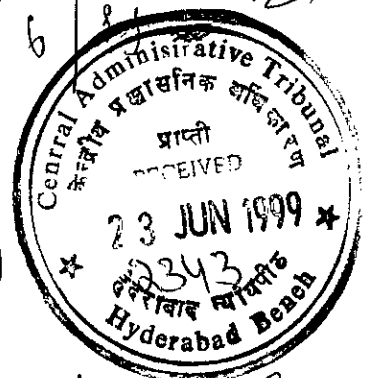
And

B. Lakshmana Rao

... Respondent/Applicant

APPLICATION FOR EXTENSION OF TIME

Filed on : 23/6/99



Shri V. Rajeshwar Rao  
Filed by : B. Narasimha Sharma,  
Sr. C.G.S.C.

Adm. No. 10/1000  
247

Marked  
5/7

MA.506/99 in OA. 1251/97.

8/7/99.

Heard Mr. V. Rajeswara Rao for the applicants in the MA and Mr. S. Ramakrishna Rao ~~in the~~ for the respondent.

We do not see any ~~most~~ worthwhile reason for ~~extension of~~ extending the time. However, the time is extended up to 10-8-99. No further extension of time will be given.

*[Signature]*  
HBSJP  
MUD

*[Signature]*  
HRRN  
MUD

बेच केस/BENCH CASE

M. विस्टल/POSTAL

ORIGINAL

M.A. No. 506 OF 1999

IN

O.A. NO. 1251 1997

Extension of time

Mr. \_\_\_\_\_

COUNSEL FOR THE APPLICANTS

AND

Mr. V. Rajeswara Rao

Sr. Addl. Standing Counsel for  
C.G. Rlys.

Mr. S. Ramakrishna Rao  
*[Signature]*

THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH  
AT HYDERABAD

M.A. No. 673 of 1999

In

O.A. No. 1251 of 1997

Between :

1. Senior Superintendent of Post Offices,  
Secunderabad
2. Director, Postal Services,  
A.P. Northern Region, Hyderabad
3. The Chief Postmaster-General,  
A.P. Circle, Hyderabad
4. Director-General,  
Dept. of Posts and Secretary  
Dept. of Posts, New Delhi .. Applicants/Respondents

And

B. Lakshmana Rao .. Respondent/Applicant

APPLICATION FILED UNDER 8(3) OF CAT (P) RULES 1987

For the reasons stated in the accompanying Affidavit it is therefore prayed that the Hon'ble Tribunal may be pleased to clarify that the Member (P), Postal services Board can review the punishment of dismissal imposed on the Applicant as per the directions in Para-13 of the order dated 9.3.1999 passed in O.A. No. 1251 of 1997 and pass such other order or orders as the Hon'ble Tribunal may deem fit and just.

Hyderabad,

DLB/8/99

  
COUNSEL FOR THE APPLICANTS/RESPONDENTS

BRM\*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH  
AT HYDERABAD

M.A. No. 673 of 1999

In

O.A. No. 1251 of 1997

Between :

The Senior Superintendent of  
Post Offices,  
Secunderabad and 3 others

... Applicants/ Respondents

And

B. Laxmana Rao

... Respondent/Applicant


A F F I D A V I T

I, V. Ramulu, s/o Thirupal Naidu, aged about 35 years, resident of Hyderabad; do hereby solemnly affirm and sincerely state as follows :

1. I am working as Assistant Postmaster-General (Staff & Vigilance) in the office of the Chief Postmaster-General, A.P. Circle, Hyderabad. As such I am acquainted with the facts of the case. I am filing this Affidavit on behalf of all Applicants/Respondents and I am authorised to file the same.

2. It is respectfully submitted that the Respondent/Applicant has filed the O.A. No. 1251 of 1997 against the punishment of dismissal from service on the grounds mentioned in the O.A. The Respondent / Applicant was acquitted in a criminal case and on that basis, the Respondent/Applicant has submitted his representation

ATTESTOR

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

  
DEPONENT

Asst. Postmaster General (S & V)  
O/o. Chief Postmaster General  
A.P. Circle, Hyderabad-500 001.

to the Member (Postal) to reconsider the punishment imposed on him in the disciplinary proceedings. This Honourable Tribunal disposed of the O.A. by an order dated 9.3.1999 directing the Respondent No. 4 in the O.A. i.e. the Director-General, Department of Posts, New Delhi; to consider the representation of the applicant to review the punishment of dismissal imposed on the applicant in the disciplinary proceedings, in the light of the acquittal recorded by the Honourable A.P. High Court. This Honourable Tribunal at para-9 of the order stated as under :-

"The Member (Postal) is not adverted to this aspect of the matter and has disposed of the representation purely on the point of limitation,"

though this Hon'ble Tribunal held that the matter was not properly considered by the Member concerned and it required to be reconsidered by the Member (Postal), however the Honourable Tribunal directed the Respondent No. 4 i.e. Director-General of Posts to review the punishment as stated above.

3. It is respectfully submitted in the statutory rules, the power of revision is vested in Member of the Board only and the Director-General and Secretary does not have the statutory powers. Hence the Member (P) Postal Services Board is the Competent Authority to review the case as directed by the Hon'ble Tribunal.

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

DEPONENT  
Asst. Postmaster General (S & V)  
O/o. Chief Postmaster General  
A.P. Circle, Hyderabad-500 001.

4. It is respectfully submitted that the Respondent/ Applicant submitted a representation directly to the Directorate, New Delhi; and the same was received on 31.3.1999. So the records of the case are not readily available with the Directorate. Hence the records of the case were called for by the Directorate. However, the orders could not be passed so far due to the reason mentioned above.

In view of the above submissions, the Hon'ble Tribunal may be pleased to clarify that the Member (P), Postal Services Board can review the punishment of dismissal imposed on the applicant as per the directions in Para-13 of the order dated 9.3.1999, passed in O.A. No. 1251 of 1997, and pass such other order or orders as the Hon'ble Tribunal may deem fit and just.



DEPONENT

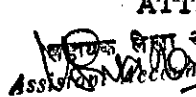
Asst. Postmaster General (S & V)

O/o. Chief Postmaster General

A.P. Circle, Hyderabad-500 001.

Solemnly sworn and signed  
his name on this 13<sup>th</sup> day  
of August, 1999 before me.

ATTESTOR

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

BRM\*

2. The applicant <sup>was</sup> working as LSG PA at Secunderabad. he was issued with a charge memo dated 19.12.86 by the Senior Superintendent of Post Offices, Secunderabad Division for certain irregularities. After conclusion of the disciplinary proceedings the disciplinary authority by its order dated 18.7.88 imposed the penalty of dismissal from service. Against the said penalty of dismissal the applicant submitted an appeal. The appellate authority by his proceedings dated 27.2.90 rejected the appeal and confirmed the punishment.

3. With regard to the misconduct alleged against the applicant the respondent authorities had filed a complaint to the Medchal Police Station. A case was registered in Crime No. 103/96. The police authorities had filed a charge sheet against the applicant in criminal case No. 218/92 before JMFC, the Court of Medchal.

4. It may be stated that the respondent authorities concluded the disciplinary proceedings even <sup>before</sup> the criminal proceedings <sup>could</sup> come to an end.

5. The Court JMFC, Medchal by its judgement dated 16.1.95 acquitted the applicant charges. The respondent authorities had filed an appeal in criminal appeal No. 697/95 before the Hon'ble High Court of A.P. The Hon'ble High Court of A.P. dismissed the criminal appeal 697/95 on 17.2.97. Thus the applicant was acquitted <sup>of</sup> all the charges <sup>formed</sup> against him.

R



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

25/1/97 O.A.No. 1251/97

26/3/99  
Date of Order : 9.3.99

BETWEEN :

B.Lakshmana Rao

.. Applicant.

AND

1. Sr.Superintendent of Post Offices,  
Secunderabad.
2. Director, Postal Services,  
AP Northern Region, Hyderabad.
3. The Chief Post Master General,  
A.P.Circle, Hyderabad.
4. Director General,  
Dept. of Posts and Secretary,  
Dept. of Posts, New Delhi.

.. Respondents.

---  
Counsel for the Applicant

.. Mr.S.Ramakrishna Rao

Counsel for the Respondents

✓ .. Mr.V.Rajeswara Rao

---  
CORAM :

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

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

---  
O R D E R

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

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Mr.S.Ramakrishna Rao, learned counsel for the  
applicant and Mr.V.Rajeswara Rao, learned standing  
counsel for the respondents.

2

11. The Member (Postal) should have considered the charge framed against the applicant in the criminal case and the charge framed against him in the disciplinary proceedings and should have ascertained ~~and~~ whether there are any similarity in the ~~charge~~ and has quoted any bearing on the said misconduct. A very simplistic view has been taken without going into the depths of the case. It is seen from the reply of the Member (Postal) dated 22.9.95 that the case of the applicant was rejected on the sole ground of delay without considering the other points. Further the applicant had filed that appeal soon after the case was disposed of by the lower court way back in 4.4.95. However the respondent organisation had taken this case challenging the orders of the lower court by filing <sup>Criminal Appeal</sup> ~~Writ Petition~~ in the High Court of A.P. which was disposed of on 17.2.97. Hence this point also needs to be kept in mind before finalising the representation of the applicant by the Member (Postal). We feel it proper to reproduce the observations made by the Apex Court reported in 1995, (2) SLJ 89. (Deputy Director of Collegiate Education (Administration) Madras vs. S.Nagoor Meera )

The relevant portion is reproduced here under :-

R "8. The Tribunal seems to be of the opinion that until the appeal against the conviction is disposed of, action under clause (a) of the second proviso to Article 311(2) is not permissible. We see no basis or justification for the said view. The more appropriate course in all such cases is to take action under clause (a) of the second proviso to Article 31(2) once a government servant is convicted of a criminal charge and not to wait for the appeal or revision, as the case may be. If, however, the government servant-accused is acquitted on appeal or other proceeding, the order can always be revised and if the government servant is reinstated

6. After final disposal of the criminal case the applicant submitted his representation to the Member (Postal) to reconsider the punishment imposed on him in the disciplinary proceedings. The Member (Postal) by his proceedings dated 22.9.95 (A-4) disposed of the representation of the applicant purely on the point of limitation.

7. The applicant has filed this OA to set aside the punishment imposed by the 2nd respondent by his proceedings dated 18.7.88 as confirmed by R-3 in his order dated 27.2.90 and to direct the respondents to reinstate the applicant into service with all consequential benefits.

8. The main contention advanced by the applicant is that the respondent authority could have taken note of the conclusion of the criminal trial and consider<sup>ed</sup> to review the punishment imposed on him in the disciplinary proceedings.

9. The Member (Postal) has not adverted to this aspect of the matter and has disposed of the representation purely on the point of limitation.

10. The learned counsel for the respondents submits that Member (Postal) has considered the submission of the applicant and has formed an opinion that as regards the acquittal of the petitioner in the criminal case against him it may be mentioned as no bearing which was for violation of the departmental rules.

R

14. The case should not be dismissed on account of delay only.

15. Time for compliance is 3 months from the date of receipt of a copy of this order.

16. The OA is ordered accordingly. No costs.

प्रमाणित प्रति  
CERTIFIED TRUE COPY

क्रम संख्या  
CASE NUMBER... O A 1251/97  
निर्णय दिनांक  
DATE OF JUDGMENT... 9.3.98  
प्रति तयारी  
प्रति तयारी... 22.3.98  
COPY MADE BY...

Secretary  
Officer  
Central Administrative Tribunal  
HYDERABAD BENCH.

V. Rajeswar Rao

he will be entitled to all the benefits to which he would have been entitled to had he continued in service. The other course of suggested viz. to wait till the appeal, revision and other remedies are over, would not be advisable since it would mean continuing in service a person who has been convicted of a serious offence by a criminal court. It should be remembered that the action under clause (a) of the second proviso to Article 311(2) will be taken only where the conduct which has led to his conviction is such that it deserves any of the three major punishments mentioned in Article 311(2). As held by this Court, in *Shankardass V. Union of India*, 1985(2)SCR 358:

"Clause (a) of the second proviso to Article 311(2) of the Constitution confers on the government the power to dismiss a person from service "on the ground of conduct which has led to his conviction on criminal charge". But that power like every other power has to be exercised fairly, justly and reasonably. Surely, the Constitution does not contemplate that a government servant who is convicted for parking his scooter in a no-parking area should be dismissed from service. He may perhaps not be entitled to be heard on the question of penalty since clause (a) of the second proviso to Article 311(2) makes the provisions ~~that~~ of that article inapplicable when a penalty is to be imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge. But the right to impose a penalty carries with it the duty to act justly".

12. The observations of the Hon'ble Supreme Court clearly shows that when a delinquent employee<sup>is</sup> acquitted then his case has to be reconsidered by the departmental authorities. In that view of the matter we feel that the Member (Postal) should have considered the representation of the applicant in proper perspective taking due note of the acquittal recorded by the DMFC and Hon'ble High Court of A.P.

13. Hence we issue the following directions :-

R-4 shall consider the representation of the applicant to review the punishment of dismissal imposed on the applicant in the disciplinary proceedings in the light of the acquittal recorded by the Hon'ble High Court of A.P.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : AT HYDERABAD

M.A. No. \_\_\_\_\_ of 1999

In

O.A. No. 1251 of 1997

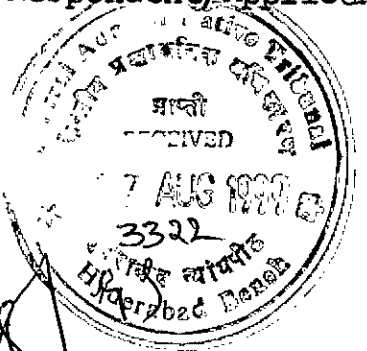
Between :

The Senior Superintendent of  
Post Offices,  
Secunderabad; and  
3 others

.. Applicants/Respondents

And

B. Laxmana Rao .. Respondent/Applicant



Filed on : 16/8/99

Received Copy  
16/8/99

Filed by : V. Rajeswara Rao,  
Addl. C.G.S.C.

MA-673/99 in OA-1251/97  
20/8/99.

Heard Mr. V. Rajeswara Rao  
for the applicants in the MA  
and Mr. S. Ramakrishna Rao  
for the respondent.

The Judgement in the  
OA directed R-y in the OA  
to dispose of the representation  
of the applicant. Now it is  
stated that the Member  
Personnel is appropriate  
authority for disposing of the  
representation of the applicant.  
Since the Member Personnel  
was not a party in the OA  
it was directed that R-y  
should dispose of the  
representation. However  
if Member Personnel  
is the appropriate  
authority to dispose of the  
representation he may  
do so in accordance  
with the rules.

The MA is disposed of.  
No costs.

HLSTP  
m(D)

HLRD  
m(D)

C.C. by Monday.  
C.P. 23/8/99.

पोस्टल/POSTAL  
बेंच केस/BENCH CASE

ऑरिजिनल

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH  
HYDERABAD

M.A.NO. 673 of 1999  
IN

O.A.NO. 1251 of 1997

clarification petition

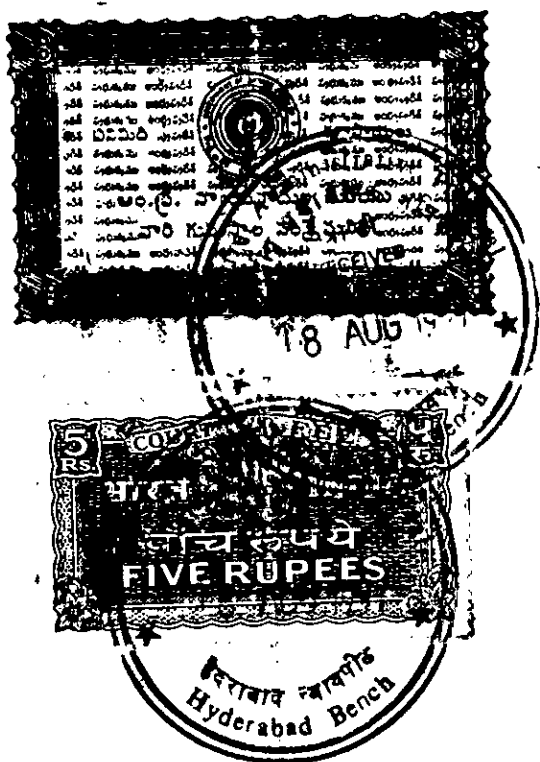
Mr. COUNSEL FOR THE APPLICANT/S

AND

MR. V. Rajeswara Rao

STANDING COUNSEL  
ADDL. STANDING COUNSEL FOR Cen. Govt.  
SENIOR STANDING COUNSEL for Cen. Govt.  
S.C. FOR RLYS.

Mr. S. Ramakrishna Rao  
Advocate



IN THE COURT OF THE CENTRAL

ADMINISTRATIVE TRIBUNAL

AT HYDERABAD

O No. of 199 7

BETWEEN :-

B. Lakshmana Rao PLAINTIFF  
PETITIONER  
APPELLANT  
COMPLAINANT

AND

Sr Supdt. of Police DEFENDANT  
RESPONDENT  
Secy and others ACCUSED

Accepted **VAKALAT**

ACCEPTED

Advocate for: APPLICANT

Filed 20.5

199 7

Address for Service

**SANKA RAMAKRISHNA RAO**

B.A.L.L.B., P.G.D.C.R.S.,

ADVOCATE

1-1-10/2, Jainahar School Lane,  
Jawahar Nagar, RTC X Road, Hyderabad-500 020.  
PHONE : 7638883



IN THE COURT OF THE CENTRAL ADMINISTRATIVE

TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

O.A No. 1251 of 1997

BETWEEN :- B. Lakshman Rao

PLAINTIFF  
PETITIONER

APPELLANT  
COMPLAINANT

AND

Sr. Super. of P.W. Sec'd Order

DEFENDANT  
RESPONDENT

ACCUSED

I/W

B. Lakshman Rao

do hereby appoint and retain

**SANKA RAMAKRISHNA RAO**

B.A.L.L.B., P.G.D.C.R.S.,

ADVOCATE

Advocate/s to appear for me/us in the above suit/case and to conduct and Prosecute (or defend) the same and all Proceedings that may be taken in respect of any application for execution of any decree or order Passed therein. I/we empower my/our, Advocates to appear in all miscellaneous proceedings in the above suit or matter till all decrees or orders are fully satisfied or adjusted to compromise and to obtain the return of documents and draw any moneys that might be payable to me/us in the said suit or of matter (and I/w do further empower my/our Advocates to accept on my/our behalf, service of notice of all or any appeals or petitions filed in any court of Appeal, reference of Revision with regard to said suit or matter before disposal of the in this Honourable Court.)



B. Lakshman Rao

Certified that the executant who is well acquainted with English Read this Vekalatnama the contents of the Vekalatnama were read out and explained in Telugu/Urdu to executant or he/she/ they being unacquainted with English/who appeared Perfectly to understand the same and signed or put his/her/their signature/s or/and marks and in my Presence.

Executed

20th

day or

May

1997

Advocate Hyderabad  
CH. GOPALA RAO



**Central Administrative Tribunal  
Hyderabad Bench  
Hyderabad.**

O.A.No. 1251 of 1997

**Memo of Appearance**

**N. V. RAGHAVA REDDY  
ADVOCATE**

**Addl. Central Govt. Standing Council**

**Address for Service :**

**Phones : Offi : 290792  
: 294419**

**207, Rahmath Commercial Complex,  
7-1-616, Ameerpet X Roads,  
HYDERABAD-500 873.**

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH, A.P.**

O.A.No.

1251

of 1997 .

B. Laxman Rao

Applicant

Vs.

Senior Superintendent of Post Offices  
Secunderabad and 3 others

Respondent

To,  
THE REGISTRAR,  
CENTRAL ADMINISTRATIVE TRIBUNAL,  
HYDERABAD.

Sir,

Please enter my appearance on behalf of the Applicants / Respondents in the above case

N. V. Raghava Reddy

N. V. RAGHAVA REDDY  
Addl. CENTRAL GOVT. STANDING COUNSEL  
CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD.

Hyderabad

24-3-1998

Counsel : Applicants  
Respondents



RECEIVED : 11/12/97

S. No. 47

dt 18/12/98

Central Administrative Tribunal,  
Hyderabad Bench, Hyderabad.

OA/BA No. 1257 of 1997



## MEMO OF APPEARANCE

**V. RAJESWARA RAO**

**ADVOCATE**

Standing Counsel for Railways,  
Addl. Standing Counsel for Central Govt.

Counsel for.....*Rajeswara*.....

Address for Service :

Phone : 272585

104/2 RT, Sanjeevareddy Nagar,  
HYDERABAD-500 038.

**Central Administrative Tribunal, Hyderabad Bench,  
HYDERABAD.**

OA/CA No. 1251 of 1997

BETWEEN

B. Lakshman Rao

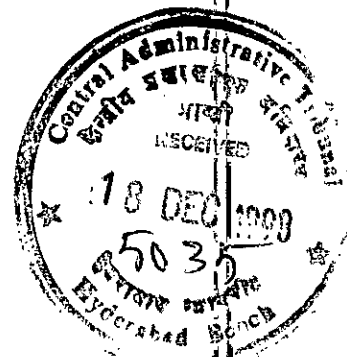
Applicant (s)

Vs.

The Director of P.W.D.  
Other  
Sundar Rao  
Other

Respondent (s)

**MEMO OF APPEARANCE**



To,

I V. Rajeswara Rao, Advocate, having been authorised.....

(here furnish the particulars of authority)

by the Central/State Government/Government Servent/..... authority/corporation/  
society notified under Sec. 14 of the Administrative Tribunals Act, 1985. Hereby appear for  
applicant No ...../Respondent No ..... and undertake to plead and act  
for them in all matters in the aforesaid case.

Place : Hyderabad

Date : 18/12/97

Address of the Counsel for Service

V. Rajeswara Rao

104/2 RT. Sanjeevareddy Nagar,

HYDERABAD - 500 038.

*V. Rajeswara Rao*

V. RAJESWARA RAO

Standing Counsel for Railways,

Addl. Standing Counsel for Central Govt.

Signature & Designation of the Counsel.