

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
O.A.No.99/98 Date of order: 1-1-2002

D.L.Gupta, S/o Sh.P.L.Gupta, R/o House No.1810,
Purani Basti, Jaipur, working as Sub Post Master,
Shivaji Nagar, Jaipur.

...Applicant.

Vs.

1. Union of India through Secretary to the Govt of India, Deptt of Posts, Dak Bhavan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Superintendent Post Offices, Jaipur City Dn, Jaipur.

...Respondents.

Mr.P.N.Jati : Counsel for applicant

Mr.B.N.Sandu : for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

Hon'ble Mr.A.P.Nagrath, Administrative Member.

PER HON'BLE MR S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer (i) to quash and set aside the order dated 31.12.96 (Annx.A3), order dated 19.1.98 (Annx.A1) and order dated 14.4.98 (Annx.A 1A; (ii) to direct the respondents to refund the money recovered from the applicant in pursuance of order dated 31.12.96 and not to recover any amount in future from the pay of the applicant; and (iii) to direct the respondents not to enhance the penalty of recovery from Rs.23400/- to 40000/- as per para 4 of the order dated 19.1.98 and order dated 14.4.98.

2. Facts of the case as stated by the applicant are that while working as SPM Bhura Tiba, a charge-sheet under Rule 16 of the CCS(CCA) Rules, 1965 was issued to him vide



memo dated 15.7.96. The allegation against the applicant was ^{he made payment of} ~~that~~ Rs.40000/- wrongly against KVPs Nos.O/CC 676652 and O/CC 676653 on 16.3.94 thereby violating Rule 22(1) of S.B Manual Vol.I, II with Rule 23 and 31 of P.O.S.B Manual ^{to} Vo.II. The applicant replied ^{to} the charge-sheet and thereafter a penalty was imposed upon him for recovery of Rs.23400/- in 36 instalments equally of Rs.650/- per month. The applicant filed appeal against the said order dated 31.12.96 but the appellate authority issued a memorandum dated 19.1.98 for enhancing the penalty and vide its order dated 14.4.98 enhanced the penalty from Rs.23400 to 40000 to be recovered from the applicant in 36 monthly instalments. It is stated that the applicant has worked as per the rules and regulations of the department while making payment of KVPs Nos.O/CC 676652 and O/CC 676653 on 16.3.94. It is also stated that a theft was committed of these KVPs and the information of the theft was circulated on 17.5.94 therefore a loss has ~~been~~ occurred to the department only due to the slack action of the respondents and the applicant cannot be held responsible for the loss. Therefore, the applicant filed this O.A for the relief as above.

3. Reply was filed. In the reply, it is stated that the representation of the applicant was given due consideration by the disciplinary authority and thereafter the order of punishment was issued. It is stated that the appellate authority has also given due consideration of all the points raised by the applicant in his appeal and thereafter the decision was taken to enhance the penalty. It is stated that the applicant violated the provisions of Rule 22(2), 23 and 31 of P.O.SB Manual Vol.II. The applicant has failed to note

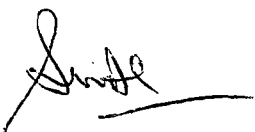


the absence of impression of date stamp of office of issue on the specimen signature slip of the holder pasted on the reverse of the identity slip which is prerequisite for determining the genuineness of the identity slip under Rule 22(2) of PO SB Manual Vol.II. It is also stated that the applicant also failed to carry out the required checks before making payment of the said KVPs as prescribed in Rule 23 of PO SB Manual Vol.II. It is stated that the payment made by the applicant against KVPs were not found to have been issued from Nagaur City Post Office, as such the said KVPs were bogus. It is stated that although the information regarding loss of the KVPs was received after payment of the fake KVPs but this fraudulent payment could have been avoided if the applicant would have followed the procedure prescribed in Rule 22(2), 23 and 31 of PO SB Manual Vol.II. It is stated that the orders of the disciplinary authority and the appellate authority are in no way against the Rules/law. Penalty can be imposed under Rule 11 of CCS(CCA) Rules 1965. As per the rule, penalty can be imposed for the recovery of whole or part as pecuniary loss caused to the government. Therefore, the applicant has no case for interference by this Tribunal and this O.A devoid of any merit is liable to be dismissed.

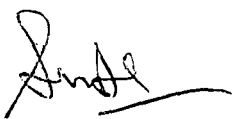
4. Heard the learned counsel for the parties and also perused the whole record.

5. The penalty imposed upon the applicant is mainly based on violation of Rule 22(2), 23 and 31 of the PO SB Manual Vol.II which reads as under:

"22(2) If a person desires to obtain an identity slip at the time of purchase of the certificate, he



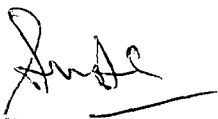
will indicate his desire on the relevant column of the purchase application. In case the certificate is being purchased through a messenger or an agent, the investor should also give his specimen signature at the specified place of the application form. The purchaser will, if he so desires, also mention his special marks of identification below the specimen signature. In case this item in the application is left unfilled by the investor, the counter Assistant will then fill in the various entries in the counterfoil and the foil of the identity slip (NC43). The stamp identity slip issued will be affixed on the face of certificate as well as on the application for purchase and the number and date of identity slip issued will be noted in ink above this stamp impression. He will then place the book of identity slips alongwith the application, the Certificate and the issue journal before the Postmaster. The Postmaster will ask the investor to append his specimen signature on the identity slip in his presence and if the application has been received through an agent or messenger he will cut out the specimen signature of the purchaser furnished in the application form and firmly paste it on the back of the form of the identity slip in the space provided for the purpose. The marks of identification if furnished by the purchaser will also be noted in the proper place in the identity slip. The Postmaster will then verify the entries in the Identity slip and its counterfoil, the



continuity of the number and the signature with that on the application and authenticate the identity slip with his signature and oblong stamp. He should also ^{put} signature and date stamp. In case the specimen signature is pasted at the back of the identity slip the stamp should be affixed in such a manner that one half of the stamp is impressed on the other pasted slip (without obliterating the specimen signature) and the other half cover portion of the blank space. The identity slip may be delivered to the investor if he attends the Post Office personally or to the authorised agent or the messenger under receipt on the counterfoil of the identity slip in the space provided for the signature of the holder or the messenger. At the close of each day, the Postmaster will examine the book of identity slips to see the slips of consecutive numbers have been issued under his signature and initial the last counterfoil of the day to save recheck on the following day. He should keep the book of identity slips in his safe custody. During the working hours the book of identity slips in use may be kept in the custody of the counter Postal Assistant. If the number issued daily, so justified it.

ENCASHMENT OF CERTIFICATE

23(1) A certificate may be presented for encashment at any Post office in India doing S.B.work. If it neither stands registered at the office nor is it accompanied by an Identity slip, the holder will be

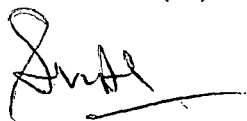


requested to make an application expressing his desire to encash the certificate at that office giving therein the name of the Post Office at which it stands registered the full particulars of the certificate, viz the serial number with the prefixed letters, date of issue and the registration number and the full name and address as given in the application for purchase. Below his signature should be given his present address. The particulars of the certificate shall be verified by the Postmaster from the original certificate which shall be returned to the holder for presentation after about a week. The application thus obtained shall be date-stamped and sent to the office of registration for verification and return within 3 days. The office at which payment is desired by the holder should telegraphically remind the office of registration if no reply is received within a week. In the meantime enquiries may be made at the local address about the identity of the applicant. On receipt back of the application from the office of registration the holder will be informed of the fact and requested to present the certificate for encashment.

The certificate to be encashed should be examined to see:

(a) Whether the period of non-encashability has expired. In the following circumstances, however, a certificate may be encashed before the expiry of the period of non-encashability:

(i) On the death of the holder, or both of the



holders in case of joint holders;

(ii) On forfeiture by a pledgee being gazetted, Govt. Officer;

(iii) When the holding is in excess of the prescribed limits;

(iv) When the certificate has been issued in contravention of the rules; and

(v) When ordered by a Court of law.

(b) That the name of the holder, the number of the certificate and date of its issue appearing in the application or the identity slip, corresponds with the entries on the certificate;

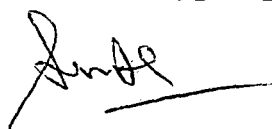
(c) That the certificate is not the one which has been reported as lost or stolen before issue from Post Offices in the Postmaster General's Circulars;

(d) That the certificate has not been attached by a Court of law;

(e) that the identity slip if issued to the holder is surrendered, and it is prescribed form. In case the identity slip is one on which the specimen signature of the holder is pasted, it should be carefully scrutinised to see that the specimen signature is not a substituted one and the stamp impression on it is intact;

(f) That the certificate is not the one in lieu of which a duplicate has been issued;

(g) If full maturity value is claimed the correctness of the date of maturity should be verified by reference to the Date Stamp and the date of issue noted on the certificate and the



application or the identity slip; and

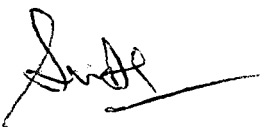
(h) that the certificate has not been reported at any time by the holder as having been lost, stolen or destroyed. In such cases, procedure laid down in Note 2 below Sub-Rule(2) of Rule 43 will be followed.

ENCASHMENT OF CERTIFICATE AT AN OFFICE OTHER THAN THE OFFICE OF REGISTRATION.

31.(1) When the holder of a certificate in respect of which no identity slip has been issued desires to discharge it at a post office other than the office where it stands registered the procedure laid down in sub-rule (1) of Rule 23 shall be followed.

6. On perusal of averments of the parties and above rules, it reveals that the applicant failed to note with suspicion, the absence of impressions of date stamp of office of issue on the specimen signature slip of the holder pasted on the reverse of identity slip which is pre-requisite for determining the issuance of the identity slip. Therefore, in our considered opinion, the applicant cannot escape his responsibility on account of the fact that the applicant has convinced him by purchasing NSC worth Rs.10000/- through the agent.

7. It is also apprent from the averments of the parties that the procedure mentioned in Rule 23(e) of PO SB Manual Vol.II has not been followed by the applicant at the time of encashment of the said certificates. Therefore, the applicant has failed to note the absence of impression of date stamp of office of issue on the specimen signature slip of the holder pasted on the reverse of the identity slip



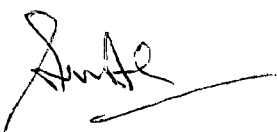
which is prerequisite for determining the genuineness of the identity slip. Therefore, the applicant failed the required check before making the payment as prescribed in Rule 23 of PO SB Manual Vol.II.

8. Rule 366 of Post & Telegraphs Manual Vol.VIII, Chapter 8 provides as under:

366. Indents for stamps and seals-(1) Indents for stamps and seals (SK-75) on the Postal Workshop at Aligarh should be issued under the signature or authority of the Head of the Circle. In preparing such indents care must be taken to quote the descriptive number and name of each stamp or seal and to write legibly and accurately according to the spelling adopted in the Post & Telegraph Guide or the List of Indian Post Offices, as the case may require, the names of the offices or sections for which the stamps or seals are required. To prevent the possibility of a mistake, the letters should be made out in printed capitals and not written in a current hand. When the articles are supplied, they should at once be credited in the stock register.

(2) It is the duty of the Manager to see that the stamps and seals received in compliance with indents correspond in every particular with articles indented for and the names of offices and sections are spelt in accordance with the authorised spelling referred to above.

9. According to this provision, the duty has been imposed upon the Postmaster to see that the stamps & seal received in compliance with indents correspond in every



particular with articles indented for and the names of offices and sections are spelt in accordance with the authorised spelling capitals.

10. It is, therefore, established that the applicant violated the provisions of Rule 22(2), 23 and 31 of PO SB Manual Vol.II and thereby caused a loss of Rs.40000/- to the exchequer of the Government.

11. It is also evident that after passing the order of disciplinary authority for recovery of Rs.23,400/- from the applicant in 36 instalments, the applicant challenged the order in appeal and the appellate authority after giving an opportunity of hearing, enhanced the penalty to the extent of 40,000/- which was the actual loss occurred to the Government on account of the negligent conduct of the applicant in not following Rule 22(2), 23 and 31 of the PO SB Manual Vol.II.

12. It is also worth mentioning that the respondents' department took action against the following three persons for recovery:

- i) Sh.D.L.Gupta, SPM, Bhura Tiba, recovery Rs.40000/-
- ii) Shri Bhambhu Ram, SPM, Kotwali, Jaipur, recovery Rs.20000/-
- iii) Shri Hanumanpuri Goswami, PA, Kotwali, Jaipur, recovery Rs.20000/-

But the applicant has only challenged the order of penalty before this Tribunal so far. It is also worth mentioning that Police report has also been filed in this matter but final report was given as the accused M.L.Gupta could not be traced. Therefore, FR was sanctioned by the concerned Magistrate and was returned to the concerned Police Station.




13. As violation of Rules 22(2), 23 and 31 of POSB Manual Vol.II has been clearly established and we do not find any infirmity/illegality in the aforesaid orders under challenge. Therefore, the applicant has no case for interference by this Tribunal and this O.A devoid of any merit is liable to be dismissed.

14. We, therefore, dismiss this O.A having no merits with no order as to costs.


(A.P.Nagrath)

Member (A).


(S.K.Agarwal)

Member (J).