

10

CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A./R.X. No. . 284. . . of 1998.

DATE OF DECISION 23-3-2001

Shri Anil Chandra Das

PETITIONER(S)

S/Shri B.K.Sharma, S.Sarma

ADVOCATE FOR THE  
PETITIONER(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

Sri B.C.Pathak, Addl.C.G.S.C.

ADVOCATE FOR THE  
RESPONDENTS

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member.

*IC Ushar*

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 284 of 1998.

Date of Order : This the 27th Day of March, 2001.

The Hon'ble Mr Justice D.N.Chowdhury, Vice-Chairman.

The Hon'ble Mr K.K.Sharma, Administrative Member.

Shri Anil Chandra Das  
resident of village Garal (Baruapara)  
P.O. Bhatta Para (Azara)  
Guwahati-17.

... Applicant

By Advocate S/Sri B.K.Sharma, S.Sarma.

- Versus -

1. Union of India  
represented by the Secretary to the  
Govt. of India, Ministry of Communication,  
New Delhi.
2. The Director of Postal Services,  
Assam Circle,  
Guwahati-1.
3. The Senior Superintendent of Post Offices,  
Guwahati Division,  
Guwahati.

... Respondents.

By Sri B.C.Pathak, Addl.C.G.S.C.

O R D E R

K.K.SHARMA, ADMN-MEMBER,

In this application the applicant has challenged the Order No.F1-7/90-91 dated 22.4.1997 passed by the Senior Superintendent of Post Offices, Guwahati Division, Guwahati removing the applicant from service and Order No.Staff/9-5/97 dated 19.12.1997 of Director of Postal Services, Assam Circle, Guwahati rejecting the appeal of the applicant.

2. The applicant was working at Saving Bank counter in Bharalumukh Post Office, Guwahati. On 24.5.90 the applicant was allotted the charge of Sub-Postmaster as the Sub-Postmaster had proceeded on leave from 19.5.90 to 1.6.90. The applicant was alleged to have drawn a sum of Rs.47,000/- (Rs.30,000/- on

*K.K.Sharma*

contd..2

3.5.90 and Rs.17,000/- on 24.5.90) from the Account of one Sri Amardip. It is stated that the applicant was forced to sign a letter on 19.10.90 to the effect that he was liable for the withdrawal of Rs.47,000/- from the account of Sri Amardip. Based on this letter the respondents on 25.10.90 initiated a preliminary enquiry. On 25.10.90 the applicant was put under suspension in contemplation of disciplinary proceeding. It is claimed that Amardip from whose account Rs.47,000/- was withdrawn when coming to know that the applicant was being held responsible for the said withdrawal wrote a letter on 23.10.90 praying not to punish the applicant. In the same letter he admitted his guilt and admitted that he had withdrawn the amount. It is stated that as Sri Amardip has withdrawn his complaint there was no cause for any complaint against the applicant. On 23.7.92 a charge sheet was issued by Senior Superintendent of Post Offices. In the said charge sheet two charges were levelled against the applicant as under :

- "(i) The applicant had withdrawn a sum of Rs.47,000/- on two occasions from the Bharalumukh Post Office Saving Bank account No.1343821 standing in the name of Shri Amardip without the knowledge of the depositor and without production of the pass book in violation of the provision laid down in Rule 33(5) of Post Office Saving Bank Manual Vol.I.
- (ii) That the applicant during period from March 1987 to 25.10.90 accepted a sum of Rs.3150/- being the value and commission in respect of three Money orders tendered by the remitter for issue at Bharalumukh S.O and granted receipts in first copy (original copy) preparing single copy receipt instead of preparing each receipt in triplicate by carbonic process and also did not credit the value and commission of the said MOs. By this act the applicant violated the provision laid down in Rule 244 of P&T Manual Vol.VI Part I and Rule 4(I) of F.H.B Vol I and thus failed to maintain absolute integrity and devotion to duty as enjoined in Rule 3(I)(i) and 3(I)(ii) of C.C.S (Conduct) Rules, 1964."

IC (U) hanu

It is stated that the applicant was not the only passing authority and charge sheet has been issued to fix the responsibility on the applicant. The applicant had requested for inspection of documents on receipt of charge sheet. However, on 25.8.92 the prayer for inspection of record was rejected. The request was rejected on the ground that :

"There is no provision for examination of listed documents at this stage. However, he will get an opportunity of inspecting the documents at the appropriate stage."

The applicant was allowed to inspect the documents on 19.1.93. on completion of enquiry Thereafter the applicant received the enquiry report dated 2.12.94. It is claimed that the enquiry report is cryptic and there has been total non application of mind by the Enquiry Officer. On 2.1.95 the applicant made a representation against the enquiry report. On 30.11.95 the disciplinary authority issued an order of penalty by which the applicant was removed from service. The applicant filed an appeal against the penalty imposed by the disciplinary authority by his letter dated 17.1.96. On appeal and considering the objection of the applicant the appellate authority set aside the order dated 30.11.95 of the disciplinary authority and directed respondent No.3 to consider the proceeding from the stage of receipt of representation submitted by the applicant in response to disciplinary authority's letter dated 2.12.94. The objection of the applicant to the disciplinary authority's order was that the disciplinary proceeding was disposed of with cryptic discussion without going through the vital points of evidence produced before the enquiry authority and that the disciplinary authority had not considered the evidence and the representation made against the enquiry report. The appellate authority found that there was no indication whether the disciplinary authority

(C.U. Jayaram)

contd..4

had gone through the representation and considered arguments of the applicant. The disciplinary authority on 22.4.97 issued order of penalty imposing penalty of removal with immediate effect. The applicant submitted his appeal on 10.6.97.

3. The applicant has challenged the action of the respondents as illegal, arbitrary and violative of Article 14 and 16 of the Constitution. The order said to have been passed in a cryptic manner without applicant of mind and without considering the factual aspects of the matter. The basis of the proceeding was the complaint of Sri Amardeep, who later on made a confession that the complaint made against the applicant may be treated as withdrawn. After this confession there remains no ground for penalising the applicant. In alternative it is claimed that the penalty imposed is harsh considering the quantum of charges. The respondents also committed a grave error in not issuing show cause notice in different stages. The applicant has prayed for setting aside the penalty order and for reinstatement with all consequential service benefits. Mr S. Sarma, learned counsel for the applicant has challenged the impugned orders. It is stated that Amardeep who was the complainant has withdrawn his complaint. Copy of the letter dated 23.10.90 of Shri Amardeep is re-produced below :.

"Shri Anil Ch.Das, LDC of Bharalumukh Post office came to me asking money and he told me to withdraw the said money from my pass book. Initially I refused but after his assurance for returning the same within 2-3 months, later on I agreed to the fact and accordingly I withdrew Rs.47,000/- and handed over to him. He had only returned Rs.5000/- to me and the rest amount being not paid, I thought that he would not returned the same and I informed the Postmaster. Now the same amount has been deposited by Shri Anil

*U. U. S. Sharma*

contd..5

Ch.Das to the Post Office and if I get the amount from the post office, I have got no complaint against him. And I have deposited the said Rs.5000/- to the Post Office.

It is therefore prayed that your honour would be graciously be pleased to not to punish Shri Anil Ch.Das."

It is submitted that when the complainant has no grievance against the applicant no cause for any action against the applicant survives.

4. He also submitted that the Enquiry Officer's report was perverse. He did not allow opportunity to the applicant to cross examine Amardeep. The records were not made available at the initial stage. After the first order of the disciplinary authority was set aside in the denovo proceeding nothing new has been added. The disciplinary authority and the appellate authority have not applied their independent mind. Another point made by Mr Sarma was that another co-accused Shri Basanta Kumar Talukdar, SPM, Bharalumukh Post Office has been let off lightly with a fine of Rs.20,000/- only whereas the applicant has been penalised by removing him from service. The penalty is disproportionate. Mr Sarma also relied on a Supreme Court ruling in the case of Committee of Management, Kisan Degree College vs. Shambhu Saran Pandey and others, reported in (1995) 1 SCC 404.

5. The respondents have filed written statement. It is stated therein that the withdrawal of Rs.30,000/-made on 3.5.90 was passed by the Sub Postmaster but the withdrawal of Rs.17,000/-on 24.5.90 was passed by applicant himself since he was in charge of the office at that time. On 8.10.90 when the depositor of the above amount again presented his pass book for entry of interest he detected that the balance of the pass book was decreased with an amount of Rs.47,000/- with the balance maintained in the ledger of the account. The

*U. Ch. Sharma*

contd..6

depositor was unaware of the withdrawal and disowned his signature on the withdrawal forms. Regarding the second charge against the applicant, it is stated that the applicant accepted Rs.3150/- being the value and commission in respect of the Money Orders tendered by the remitter and granted receipts in first copy from book of money order receipt. The rules require preparation of 3 copies by carbonic process. The applicant did not credit the value of money orders as well as the commission to the account of the Government and did not journalise them or despatch to office of destination for payment. Regarding the letter dated 19.10.90 which the applicant claimed that he was forced to write accepting the admission of irregularity committed by him, it is stated that all officials involved in the matter were asked to submit written statement stating the facts within their knowledge about the irregularity. The allegation that he was forced to write a confession in letter dated 19.10.90 is baseless. The responsibility of the misappropriation was fixed upon the applicant after a *prima facie* case was established. It is also stated that the respondents did not receive any letter dated 23.10.90 from Amardip accepting his guilt and praying before the respondents not to punish the applicant. On the other hand Amardip gave his written statement on 19.10.90 before the departmental officers denying the signature on the withdrawal forms, stating that he was unaware of the withdrawal forms. It is also stated that apart from the applicant Shri Basanta Kumar Talukdar who was the regular Sub Postmaster was also identified as co-offender and was separately charge sheeted and inflicted with the penalty of recovery of Rs.20,000/-. Regarding the submission of the applicant that he was denied inspection of the documents at the initial stage, it is stated that the applicant would be given opportunity to inspect the documents at the appropriate stage.

*AC (U) Shar*

contd..7

At the time the memo dated 23.7.90 was issued to the applicant he was required to be stated whether he denied or admitted the charges. However, subsequently documents were allowed to be inspected as mentioned in para 4.11, 4.12 and 4.13 of the application. It is stated that all procedural formalities have been followed by the respondents. It is also stated that when the appellate authority found that the disciplinary authority had not considered the objections of the applicant to the Inquiry Officer's report, it set aside the penalty order and directed the disciplinary authority to hold *denovo* proceeding. The disciplinary authority while confirming the punishment order on 19.12.97 considered the report of the Enquiry Officer carefully examined the report as well as the objections of the applicant to the order of the disciplinary authority and after full consideration of facts disposed of the appeal by confirming the punishment of removal from service. The disciplinary authority as well as the appellate authority have discussed all the points in issue before arriving at their findings. Principles of natural justice have not been violated in any way and the applicant has been given opportunity. Mr B.C.Pathak learned Addl.C.G.S.C referred to Rule 33(5) of Post Office Saving Bank Manual and submitted that the action of the applicant was in clear violation of the procedure provided in the Rule. With regard to the objection of the applicant that documents No.14 could not be shown to him, he submitted that the same could not be shown as the same was seized by the police. All other documents have been inspected by the applicant. The documents established violation of rules. Regarding the letter dated 23.10.90 of Amardip it is stated that it is a cover up. He submitted that misconduct of the applicant has been fully established and he has been rightly punished.

*IC Usha*

5. We have considered the rival contentions. The main argument on behalf of the applicant is that the complainant Sri Amardip had withdrawn his complaint as per his letter dated 23.10.90 and thereafter there was no cause for any action against the applicant. He has also challenged the enquiry report on the ground that no opportunity was given to examine the documents at the initial stage when the memo of charges was issued. The order of disciplinary authority and the appellate authority are challenged on the ground that they are cryptic and have failed to consider the applicant's objections and that the penalty is disproportionate to the charge. We have gone through the documents relied on by the applicant. The letter dated 23.10.90 on which the applicant relied on has been re-produced above. The letter mentioned that as the applicant required the money and he came to meet Sri Amardip and the said Amardip withdrew the money and handed it over to the applicant and the applicant has returned only Rs.5000/- and has not repaid the balance. In the end it is mentioned that "if I get the amount from the post office I have no complaint against him." This shows that so called withdrawal/complaint is dependent on the repayment of full amount of Rs.47000/- while he has received only Rs.5000/- from the applicant. The second objection of the applicant that the inspection of record was not allowed at the time of issue of memo of charge though requested. It is also examined that it is not the applicant's case that he was denied opportunity to examine the documents on which the presenting Officer was relying to establish the charges. As per applicant's own admission the records were made available to him and he was able to prepare his defence. When the memo of charge was issued the applicant was given 10 days time to accept the charges or to deny

(C. V. K. H.)

contd..9

9

denial of the charges. At that stage the inspection of the relied documents would not have prejudiced his case. Examination of documents takes place in the enquiry proceeding and before enquiry proceeding the applicant had been given opportunity to go through the documents and prepare his defence. The reliance by the applicant on Supreme Court Judgment in Committee of Management, Kisan Degree College vs. Shambhu Saran Pandey & others, reported in (1995) 1 SCC 404, which was a case where the charge sheeted person was not given an opportunity to examine the documents till the time of final arguments. The charge sheeted person did not participate in the enquiry and on the basis of the enquiry report, the charge sheeted person was dismissed. The following observation from the judgment is re-produced below :

" . . . It is settled law that after the charge sheet with necessary particulars, the specific averments in respect of the charge shall be made. If the department or the management seeks to rely on any documents in proof of the charge, the principles of natural justice require that such copies of those documents need to be supplied to the delinquent. If the documents are voluminous and cannot be supplied to the delinquent, an opportunity hasgot to be given to him for inspection of the documents. It would be open to the delinquent to obtain appropriate extracts at his own expense. If that oppurtunity, was not given, it would violate the principles of natural justice. At the enquiry, if the delinquent seeks to support his defence with reference to any of the documents in the custody of the management or the department, then the documents either may be summoned or copies thereof may be given at his request and cost of the delinquent"

Further in para 6 of the said judgment it is stated that :

" In the first instance he should be given the opportunity for inspection and thereafter conduct the enquiry and then hear the delinquent at the time of conclusion of his enquiry."

IC (Wagn)

contd..10

In this case the applicant was given an opportunity to inspect the documents relied on by the respondents before the enquiry ~~commenced~~. His case was not prejudiced in any way by the denial of opportunity to inspect the documents on receipt of the memo of charges. The orders of the disciplinary authority and the appellate authority show that they have considered the applicant's objection, they have given reasons on the objection of the applicant. It cannot be said that they have failed to consider any of the objections raised by the applicant. When the appellate authority ~~order~~ passed its <sup>order</sup> by applying its <sup>mind</sup> to the report of the enquiry officer and fully agree <sup>with</sup> with the findings of the enquiry. For its own reasons it cannot be said that there has been non application of mind. This objection of the applicant <sup>is</sup> without any merit. Another objection of the applicant was that he was not only person involved and that Sub Postmaster was also responsible as he had verified the payment of Rs.30,000/- on 3.5.90. The respondents have pointed out that action was also taken against the Basanta Kumar Talukdar, SPM and that a fine of Rs.20,000/- had been imposed on him. Too much reliance cannot be placed on the letter dated 23.10.90 of Sri Amardip as this has not been addressed by him to the respondents. The same has been given by him to the applicant. Much reliance cannot be placed on it as it is a self ~~con~~ serving document. The learned counsel for the respondents ~~had~~ Mr B.C.Pathak argued that there are well laid down rules and regulations governing the Saving Bank Account Operation and procedure for handling money orders. He referred in particular to Rule 33(3)(b)(ii) of the Post Office Savings Bank Manual Volume I, which is

contd..11

I C U Shahr

re-produced below :

"33(2)(iii) In the case of a withdrawal of a sum of exceeding Rupees 500/-, the signature on the application for withdrawal should be compared with the specimen signature on record in the post office both by the Counter Assistant as well as by the Ledger Assistant in a H.O. and by the Counter Assistant and the SPM in a sub office. Both the officials should compare and pass the signature and sign the withdrawal form in token of their having done so. In sub offices where the saving work is done at all stages exclusively by the saving bank Postal Assistant during the off duty period of the SPM and where there is no supervisor to take the place of the Sub Postmaster during his absence, the prescribed check should be carried out by the sub postmaster on his return to duty and his signature placed on the withdrawal form in token of the check.

33(b)(ii) The Ledger Assistant should check the entries in the pass book. He should verify the balance as shown in the pass book with that in the ledger card and the application for withdrawal, make an entry of withdrawal in the ledger card enter in the pass book transactions, if any, relating to cheques etc. which have been posted in the ledger card but not in the pass book and make sure that the balance after entry of all transactions in the pass book tallies with that in the ledger card. He should then sign in the ledger card and write the number of the binder on the withdrawal form. The pass book, the binder and the application for withdrawal should then be placed before the postmaster.

31(2)(ii) The Counter Assistant will accept the deposit alongwith the pass book and pay-in-slip as prescribed at the HO in Rule (i)(b) above. He should check the entries in the pay-in-slip with the entries in the pass book and initial it. He should also enter transactions in the pass book, if any, which have been posted in the SB Ledger but not in the pass book. He will then make the entry of deposit in the SB ledger under his signature and satisfy himself that the balance after the entry of the transactions in the ledger agree with that in the pass book and pay-in-slip after entry of all transaction as above. He should then place the pass book, pay in slip and the ledger before the Sub Postmaster for check.

(b) On receipt of pass book, pay-in-slip and the ledger from the Counter-Assistant, the SPM should, compare the entries in the pass book with those in the ledger and the pay-in-slip and initial the passbook and the ledger. A note of transaction should be made by him in the Long Book. The balance in the ledger after the transaction should also be noted by him. After check he will return the documents on the Counter Assistant.

*CC Usha*

(c) On receipt of the documents from the Sub postmaster after check, he will deliver the pass book alongwith counterfoil of pay-in-slip to the depositor."

Reading of the aforementioned rules establishes that Pass Book has to be presented at the time of withdrawal. In the present case no pass book was produced. The applicant admitted that he has made entries for the drawal of Rs.47,000/- from the account of Sri Amardip on the basis of some arrangement with him. The applicant was holding responsible position where he was handling public money. A higher sense of responsibility and integrity was expected from him, even if he was in need of money for some purpose and even if the depositor Sri Amardip was known to him and was agreeable to help him financially the applicant was required to follow the normal procedure for withdrawal from the account. Even if the withdrawal could not have been made without presenting the pass book the account holder is required to attend personally or through an authorised agent for withdrawing the money from saving bank account. The withdrawal was not permissible under the Postal rules. We reproduce the finding of the Enquiry Officer in respect of the charges :

"The case is concentrated to the points that Shri Anil Chandra Das, PA Bharalumukh SO had withdrawn an amount of Rs.47,000/- by signing the SB-7 form himself from the Bharalumukh SO SB A/c No.1343821 on 3.5.90 and 24.5.90 possessed by one Shri Amardeep and took payment of the amount by Shri Das himself without the knowledge of the depositor and without production of the Pass Book in violation of Rule 33(5) of PO SB Man. Vol 5 and thereby displayed lack of integrity in violation of the provision laid down in Rule 3(I)(i) of CCS(Conduct) Rules, 1964."

Secondly, Shri Anil Chandra Das, PA Bharalumukh SO accepted a sum of Rs.3150/- representing the value and commission in respect of three Money Orders tendered by the remitter for issue at Bharalumukh S.O. Shri Das received the MO forms and granted the receipt in the first copy (Original copy) in ~~xxx~~ prescribed form from receipt no.1083 to 1085 preparing single copy of the receipts instead of preparing triplicate by carbonic process and he did not credit the amount to the

1C (Shah)

contd...13

C. T. Annex. II

Government. He kept these MO forms in his custody without journalised and without despatched to the office of the payment. The corresponding second and third copies of the receipts which were kept blank were used subsequently in other cases making the second copy as original and third copy as duplicate. He used one blank while paper conforming to the size of the second and third copies as triplicate copy. By that act he violated the provision of Rule 244 of P&T Man. Vol. VI Part-I and Rule 4(1) of FHB Man. Vol. I and thus he failed to maintain the absolute integrity and devotion to duty as enjoined in Rule 3.(\*) (i) and 3(1) (ii) of CCS (Conduct) Rules, 1964.

There are altogether 16(sixteen) items of documentary evidences in the case on behalf of the prosecution side out of which the 1st ten items related to the Article of charge no.1 and the rest related to Article of charges no-II.

I have gone through the documents, the points raised during the examination-in-chief, cross examination along with the written briefs of the PO and C.O. The charged official in his written defence stated that the withdrawal of Rs.47,000/- from SB Pass Book A/c no.1343821 were affected by him and took payment by himself with the consent of Shri Amardeep, the depositor as loan and the depositor signed the withdrawal form (SB-7) on 3.5.90 and 24-5-90. But Shri Amardeep SW-1 during examination-in-chief deposed that he had not tendered the SB Pass Book nor he signed any SB-7 form on 3.5.90 and 24.5.90 for withdrawal of Rs.30,000/- and Rs.17,000/-. The Pass book was all along with him. He deposed that he had a balance in his a/c amounting to Rs.54,147.75 as on 19.10.90 and, when he tendered withdrawal form alongwith SB a/c no.1343821 for withdrawal of Rs.50,000/- during some time in October, 1990 he was informed that he had not so much amount. The SW-1 also deposed that he received a sum of Rs.5000/- from Sri Anil Chandra Das and credited the amount in his another Pass Book. Although it is reflected that there was some understanding in between Sri Das and the depositor Sri Amardeep but from the documents (S-2(A) and S-2(B) and the deposition of Shri Amardeep

I C U S Sharmin

contd..14

74

that he had not signed the SB-7 form it is observed that understanding between both has no material connection with the articles of charges as the charged against Sri Das related to infringement of Rule 33(5) of PO. SB Man Vol.I in which the withdrawal were effected by Sri Das forging the signature of the depositor in SB-7 form on 3.5.90 and 24.5.90 without making entry of withdrawal in the Pass Book. As regards charges under Article-II the PO could not brought the SW Sri Nagina Yadav although the undersigned summoned him several times. Again, the Sub Office A/c Book of Bharalumukh dated 30.3.90 and 31.3.90 also could not produce by the PO on the ground that the same were seized by the police in connection with a criminal case. But, from the MO forms (S-11(A), S-II(B) & S-II(C), the remitters receipts no.1083 to 1085 (S-12(A), S-12(B) & S-12(C), MO issue journal (S-14(A) & S-14(B) and the blank paper sheet (Corr-22) form Patt-V (S-13) which are the vital documentary evidence, it is established that provisions of Rule 244 of P&T Manual Volume VI P&T I. The written statement dated 19.10.90 (S-8) and 9.7.92 (S-16) also speaks the above violation of Rules.

Findings :-

From the above discussion, I have arrived the conclusion that both the charge framed against Sri Anil Chanda Das, Postal Assistant (Under Suspension) Bharalumukh, SO under Senior Superintendent of Post offices, Guwahati Division Memo No.Fi-7/90-91 dated 123-7-92 are proved."

The disciplinary authority has also dealt with the issues in detail to the claim of the applicant that withdrawal of Rs.47,000/- with the consent of the depositor, the disciplinary authority has observed as under :

"Rather Shri Amardeep during examination in chief deposed that he had not tendered the SB pass book nor he singed any SB-7 form on 3.5.90 and 24.5.90 for withdrawal of Rs.30,000/- and Rs.17,000/-. His pass book was all along with him. If the amount was not entered in the pass book and the depositor did not sign the SB-7 how Shri Das could withdrew the amount with the full consent of the depositor? Hence the plea of Shri Das that the depositor restrained him to make entry of the deposit is quite unacceptable. The production of pass book and entry of transaction in it is obligatory as per Rule 35(5) of PO SB Manual Vol.I.

*IC Usha*

contd..15

The IO discussed his own assessment regarding the withdrawal and observed that mutual understanding between the depositor and Shri Das has no material connection with the article of charges. The question of verification of specimen signature by handwriting experts does arise as depositor denied signing in the SB-7 form on 3.5.90 and 24.5.90 and the CO himself stated in his statement dated 19.10.90 (S-9) that he wilfully withdrew money from his SB account without the knowledge of the depositor. The private transaction between Sri Das and the depositor cannot reflect on the enquiry report of the IO as the depositor denied such transaction.

Sri Das although submitted a private letter stated to be signed by Sri Amardeep cannot be accepted as Sri Amardeep denied any withdrawal from his pass book a/c no. 1343821. He did not admit any private transaction during oral enquiry. Shri Das stated that the ledger clerk was aware of the agreement of loan between him and the depositor but he did not produce him as a defence witness. In fact there was no SB ledger clerk in a sub office.

Regarding production of witness in respect of charge no. II, the records produced during enquiry are quite sufficient to show that Shri Das issued the Money orders for Rs.3,150/- and granted receipts no. 1083 to 1085 from the receipt book but did not credit the amount into the account. Shri Das could not deny the authenticity of the documents during enquiry.

Thus although Shri Anil Ch. Das tried to deny the charges but could not produce any defence document and defence witness to prove his innocence. I fully agree with the findings of the IO. Shri Anil Ch. Das wilfully withdrew money from the SB account without the knowledge of the depositor as stated in his written statement dated 19.10.90 (S-9). He also deliberately manipulated the MO receipt book and misappropriated govt. money as admitted in his written statement dated 9.7.92 (S-16). The offence committed by Sri Das is grave in nature and deserves exemplary punishment."

The appellate authority also did not agree with the applicant's objection that the disciplinary authority had disposed of the disciplinary proceeding with routine and cryptic discussion. The appellate authority has observed that:

"... The depositor of SB A/Cs and remitters of money orders place their money with the post office on trust for different purpose. It is the duty of the Post Office employees

1 C U Shrivastava

contd...16

to see that this money is taken care of as per rules and regulations so that the trust bestowed on the Post Office is not betrayed and the depositors and the remitters get the services required. Under the circumstances, the employees of Post Offices should be responsible and trust worthy persons. The conduct displayed by the appellant is such that his retention in service is not at all desirable."

6. Having gone through the documents relied on by the applicant and the respondents we find that the applicant has not been able to establish that there was any infirmity in the orders passed by the disciplinary authority and the appellate authority. The respondents have followed the laid down procedures and conducted the enquiry as per procedure. The applicant had been given all opportunities to present his case. The appellate authority set aside the proceeding of the disciplinary authority on the ground that the disciplinary authority had not dealt with the applicant's objection in the first penalty order and directed *denovo* proceeding. The disciplinary authority again reexamined the issue considering the objections of the applicant and awarded the punishment. The appellate authority has also considered the applicant's objection to the order of the disciplinary authority and considering each and every objection has confirmed the order of penalty. The applicant was handling Government money. The public dealing with the post office has confidence in the infallibility of the system, they have confidence that their money is safe when deposited with the post office. The person handling public money should not <sup>resort</sup> to irregular methods to withdraw money from the account of the depositor. <sup>With the</sup> failure to following the procedure, the faith in public institution will be lost. The amount of Rs.47,000/- and 3015/- may appear to be small but the gravity of the charges having wider remification.

L C Usha

contd..17

The applicant was supposed to observe highest standard of integrity, but failed to observe the same. Considering the nature of the job of the applicant we do not find that the punishment awarded to him is disproportionate. We decline to interfere with the orders dated 22.4.97 and 19.12.97 and dismiss the application.

The application is accordingly dismissed. There shall, however, be no order as to costs.

K. K. Sharma  
( K.K. SHARMA )  
ADMINISTRATIVE MEMBER

D. N. Chowdhury  
( D.N. CHOWDHURY )  
VICE CHAIRMAN