

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FROM NO. 4
(SEE RULE 42)

SENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 157/2002

Misc Petition No. /

Contempt Petition No. /

Review Application No. /

Applicants: M. Baruwa

-Vs-

Respondent(s) N. O. I. Govt

Advocate for the Applicant(s) B. D. Singh

Advocate for the Respondent(s) C.G.S.C.

| Notes of the Registry | Date | Order of the Tribunal |
|--|---------|--|
| 76.574.637 16.5.2002 Sd/ | 21.5.02 | Heard Mr. B.D.Singh, learned counsel for the Applicant. Issue notice to show cause as to why the application shall not be admitted. Returnable by four weeks. List on 21.5.2002 for admission. |
| 16.5.2002 Sd/ | 21.6.02 | mb The application is admitted. Call A for the records. Mr. A.Deb Roy, learned Sr. C.G.S.C. appearing for the respondents prayed for time to file written statement. Prayer is allowed. List again on 29.7.2002 for written statement. |
| 21/5/02 D/Wo. 1494 li 96 Dtd 27/5/02 | mb | K. U. Sharma Member Vice-Chairman |

① Service report are
still awaited.

20.6.02.

No written statement
has been filed.

29.7.2002 Written statement is yet to be filed by the respondents. Put up on 26.8.2002 for filing of written statement.

I C Usha
Member

Vice-Chairman

bb

26.7.02

30.7.02
W/S submitted
by the Respondents.

26.8.02 Written statement has been filed. Mr. A. Deb Roy, learned Sr. C.G.S.C. for the Respondents stated that he is yet to serve the copy of the written statement to the learned counsel for the applicant. Office to take necessary steps for that purpose. Since pleadings are complete, the case may now be listed for hearing on 18.9.2002. The applicant may file rejoinder, if any, within three weeks from today.

I C Usha
Member

Vice-Chairman

mb

18.9

Division Bench did not sit today.
The case is adjourned to 21/10/2002.

M/s
A/t Secy
FBG

21/10

Name appears before the appellant.
Will appear on 10/10/2002.

M/s
A/t Secy
FBG

10/10/2002

Name appears before the appellant even today also.
Will appear on 21/10/2002.

M/s
A/t Secy
FBG

| Note of the Registry | Date | Order of the Tribunal |
|--|------------|---|
| | 21.11.02 | <p>None appears for the applicant. ^{again} List on 22.11.02 for <u>further</u> hearing.</p> <p>K. I. S. H. Member</p> <p>lm</p> |
| <u>7.1.2003</u> <u>Copy of the Judgment</u> has been sent to the Office for issuing MS copy to the applicant as well as to the Dr. C.G.S.C for the Respondent. | 22.11.2002 | <p>None appears for the applicant. We have heard Mr A. Deb Roy, learned Sr. C.G.S.C. appearing on behalf of the respondents. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.</p> <p>K. I. S. H. Member</p> <p>nkm</p> |
| | | <p>Vice-Chairman</p> |

✓

| Note of the Registry | Date | Order of the Tribunal |
|----------------------|------|-----------------------|
| | | |

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / ~~XXX.~~ No. . . 157 . . of 2002

DATE OF DECISION 22.11.2002

Shri Maheswar Biswas APPLICANT(S).

- VERSUS -

Mr. A. Deb Roy, Sr. C.G.S.C. ADVOCATE FOR THE RESPONDENT(S).

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 Ho'ble Vice-Chairman

X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.157 of 2002

Date of decision: This the 22nd day of November 2002

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

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

Shri Maheswar Biswas,
Resident of Farmarpur, Kharikhowa,
P.O.- Kharikhana, P.S.- Lanka,
District- Nagaon, Assam.Applicant
By Advocate Mr B.D. Singh.

- versus -

1. The Union of India, through the
Secretary,
Ministry of Communication,
Government of India,
New Delhi.

2. The Director of Postal Services,
(H.W.), Assam Circle,
Guwahati.

3. The Superintendent of Post Offices,
Nagaon Division,
Nagaon.Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The applicant first joined in service as Mail O/S Lumding on 20.12.1974 at Kharikhana E.P.D.A. till 7.1.1979. He was upgraded as E.P.B.P.M. at Kharikhana E.D.B.O. Thereafter, while he was serving as such, a disciplinary enquiry was conducted for the alleged misconduct committed by him. A departmental enquiry was held and on conclusion of the departmental enquiry the

applicant was found guilty and accordingly he was dismissed from service vide order dated 28.2.2001. The applicant had preferred an appeal against the penalty imposed as far back as 10.7.2001. Since the appeal was not disposed of in time, the applicant finally moved this O.A. assailing the legitimacy of the action of the respondents.

2. The respondents submitted their written statement and in the written statement they have stated that till the filing of the written statement on 29.7.2002 the appeal submitted by the applicant was not disposed of.

3. None appears for the applicant. We have, however, heard Mr A. Deb Roy, learned Sr. C.G.S.C. appearing on the behalf of the respondents. We do not find any justification for not disposing of the appeal. Since the appeal has not been disposed of as yet we direct the respondents to dispose of the same in accordance with the law with sympathetic consideration of the case of the applicant as early as possible, preferably within 1 (one) month from the date of receipt of the order.

4. The application is accordingly disposed of. No order as to costs.

K. K. Sharma

(K. K. SHARMA)
ADMINISTRATIVE MEMBER

D. N. Chowdhury

(D. N. CHOWDHURY)
VICE-CHAIRMAN

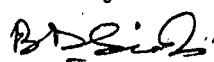
nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ::GUWA ATI BENCH.

I N D E X

| <u>Sl. No.</u> | <u>Particulars</u> | <u>Page</u> | <u>Page No.</u> |
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| 1. | <u>Annexure No. 1</u> A copy of Memorandum vide Memo No. F6-02 (C)/99-00 dtd. 19-9-2000. | | 1 - 11 |
| 2. | <u>Annexure No. 2.</u> A copy of dismissal order dtd. 28-2-2001. | | 12 - 15 |
| 3. | <u>Annexure No. 3.</u> A copy of the appeal petition dtd. 10-7-2001 before the Director, Postal Services O/C, PM, Dibrugarh. | | 16 - 18 |
| 4. | <u>Annexure No. 4</u> A copy of the representation dtd. 25-2-2002. | | 19 - 22 |
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| 7. | Notices. | | |

Filed by


Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH

GUWAHATI

(An application under Section 19 of the Central
Administrative Tribunal Act. 1985).

Sri Maheswar Biswas
through Barrister

ORIGINAL APPLICATION 157 /2002

Shri Maheswar Biswas ... Applicant

-Versus-

The Union of India & ors. ... Respondents.

DETAILS OF THE APPLICANT :-

1. Name of the Applicant & Address

:- Shri Maheswar Biswas
S/O Late Nagar Biswas
R/O Farmakpar, Kharikhawa
P.O. Kharikalan, P.S. Lanka
Dist. Nagaon, Assam.

2. Reservation

:- Extra Department Branch
Post Master (EDBPM)

3. Particulars of the Respondents

:- 1. The Union of India
through the Secretary,
Ministry of Communication
Govt. of India, New Delhi
110001.

contd....2

2. The Director of Postal Services
(H. M.) Assam Circle, Guwahati-781001
3. The Superintendent of Post Offices,
Nagaon Division, Nagaon- 782001.

PARTICULARS OF ORDER AGAINST WHICH THE APPLICATION
IS MADE :

1) Against the review order Memo No. F6-02(C)/99-00 dated 28-2-2001 issued under the signature of Sri A.K. Biswas, the superintendent of Post Offices, Nagaon Division, Nagaon 782001 and disciplinary authority orders applicant (under Part of duty) dismissed from service with immediate effect.

2) JURISDICTION OF THE TRIBUNAL :

The applicant declares that the cause of action has arisen within the jurisdiction of this Hon'ble Tribunal.

3) LIMITATION :

The applicant declares that the application is filed before this Hon'ble Tribunal within the time limit prescribed under Section 21 of the Administrative Tribunal Act, 1985.

contd...3

M. Biswas

4. FACT OF THE CASE :

4.1. That the applicant is a citizen of India and a permanent resident of Famaarpur, Kharikhana via-Lanka, P.S. Lanka, Dist. Nagaon, Assam. The petitioner passed H.S.L.C. Examination in the year 1974, he joined in service as Mail O/S Lumding on 20-12-74 at Kharikhana E.P.D.A. till 7-1-79 and during the period the applicant discharged his duties with utmost care, attention and sincerity. The applicant was upgraded as E.P.B.P.M. as Kharikhana E.D.B.O. Q/c with Lanka S.D. under Diphu H.O. since 03-01-79 and he was asking honestly and sincerely for more than 20 years. The applicant was paid very poor salary and this was his only earning source for maintaining the family. With the income of the job as E.D.B.P.M., the applicant had to maintained the family.

4.2. That the applicant begs to state that he was continuing his duty at Kharikhana E.D.B.O., he was charged vide ISPOS/Nagaon, Memo No. F6-02(C)/99-00 dated 19-09-2000 to held an enquiry against the applicant under Rule 8 EDAS (Conduct & Service)Rules 1964. In the Memo of Charges - there are three Articles of charges -

Article -1

Relates to shortage in the B.O. Cash Balance of Rs. 7,052.00 on 22-07-99.

contd...4

M. Biswas

Article-II

Relates to Non Credit of Rs.,100.00 being the value and Commission of B.O.MO. No. 08 dated 06-07-98 for Rs.2000.00.

Article III

Relates to Non credit of Rs.1,200.00 in S.B. Deposit on 29-01-99.

Total amount of Non credit as per Memo of charges was 10,352.00 only and the whole amounts was subsequently credited to the Govt. by me.

Besides this, the applicant was further informed verbally that there was some non-credit in R/D a/cs also amounting to Rs.10,250.00. But particulars of the R/D a/c against which non credit occurred were not furnished. Out of Rs.10,250.00 the applicant have already deposited Rs. 3,500.00 vide stay in Post Office Receipt No. 96 dated 11-09-2000. On rule -8 inquiry- in preliminary hearing the applicant pleaded guilty and admitted the charges brought against him in the Memo of charges and the applicant explained the circumstances in which the non credit of the amount occurred in the statement of defence and the written representation.

contd...5

M. Biswas

A copy of the Memorandum vide Memo No. F6-02(C)/99-00 dated 19-09-2000 drawing disciplinary proceeding is annexed as Annexure No. 1.

A copy of the order dtd 28-2-2001 awarding punishment to the applicant is annexed as Annexure No. 2.

4.3. That this applicant being aggrieved by and dissatisfied with the order dated 28-02-2001 (vide Annexure No. 2) awarding punishment to the applicant preferred an appeal before the Director of Postal Services, office of the Post Master General, Assam Region, Dibrugarh-786001. The learned Appellate Reviewing authority has not get disposed of the appeal.

A copy of the appeal Petition dtd. 10-7-2001 is annexed as Annexure No. 3.

4.4. That the applicant submits that services joining as EDBPM on 03-1-79 i.e. more than 20 years, he discharged his duties honestly and sincerely. There was no spot in his past service career. But suddenly the son of the applicant fell ill and gradually it became serious. He could

con td...5

M. Biswas

not give his son proper treatment for want of money. The applicant tried his best to land money from money-lender but he could not manage it. Then he wanted to keep mortgate of his land and dwelling house the only property he possessed, to save the life of the ailing son whose condition became bad to worse. But nobody wanted to keep mortgate of the applicant land. As the applicant could not manage the money to render proper treatment to his son whose condition became worse, he was mentally disbursed. Finding no other alternative way to save the life of his son, he was ~~ok~~ overcome by the circumstances and did the mistake and incurred the Govt. money for rendering immediate proper treatment to his son to save his life though it was already delayed. It was expected that somehow the applicant would managed the money and made good to the Govt. in a short time on the other hand, the applicant's son could not recover and became blind.

4.5. That the applicant submits that somehow he made good the charged amount of Rs. 10,352.00 and payed for sympathy and money to the authority to set aside the charged brought against him considering the circumstances under which it happened and to save his poor family from starving as this is the only job to maintain the family.

contd... 7

M. Biswas

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

(i) For that the learned Reviewing Authority passed the impugned order dated 28-02-2001 vide Annexure-2 dismissing the applicant from service in violation of rules of provisions of law and hence the impugned order is bad in law and liable to be set aside.

(ii) For that the learned Reviewing Authority has committed error of law and facts in ordering ~~xx~~ dismissal.

(iii) For that the instant case is a case where offence committed is not deserving a major punishment as became the applicant has not committed a fraud and the Department has not sustained any loss. Whatever mistake is done by the applicant is not with wilful intent manner. There was no mensrea in committing any offence. Under these position of facts, the Reviewing authority ought not to have taken such view which is too harsh and causing immence loss and suffering to the applicant. Hence, the impugned order dated 28-02-2001 is bad in law and liable to be set aside and quashed.

(iv) For that the humble applicant in all his representation and during the enquiry admitted his mistake which was because of unavoidable circumstances and

contd...8

M, Biswas

and made good the shortage within a short spell of time and prayed for exoneration as ~~fixx~~ first instance and the reviewing authority ought to have considered his prayer of excuse.

(v) For that the reviewing authority failed to dispose of the appeals within the period of six months which is violation of provision of law under Rule 29(1) of CCS(CCA) Rules, 1965 read with Govt. of India instruction No. 6 below the said Rules. The appeal was filed on 10-07-2001 and impugned order was passed on 28-02-2001.

(vi) For that in the Memo of order it was observed as the charged E.D. Official has no other source of income, he has therefore lost his main source of income and he should be adjudged as incussing a disqualification to continue as E.D.B.P.M. These must be absolute instance . On the adequate source of income of E.P.B.P.M and the allowances paid for his work as E.D.B.P.M. is nothing but just supplementary to his income. The charged E.D. official disqualifies himself to continue as E.D.B.P.M. As the job of E.D.B.P.M. was his main source of income and it was not his supplementary income being disqualified to continue as ED.B.P.M. as main source of income was lost. The applicant has no other source of income except this job of E.D.B.P.M.

contd...9

M. Bawas

(vii) For that the Revisional authority has not disposed of the appeal which has been filed on 10-07-2001.

(viii) For that in any view of the matter, the impugned order dated 28-2-2001 is not maintainable in law.

6. DETAILS OF REMEDIES EXHAUSTED :

The humble applicant submitted his representation on 25-02-2002 which is still pending.

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

The ~~appell~~ applicant declared that he has not filed any application, Writ Petition or suit regarding the present matter in any court of law or Tribunal and no case is pending before any court.

8. RELIEF PRAYED FOR :

Under the above circumstances of the case as stated above, the humble applicant most respectfully prays for following relief :-

(1) That this Hon'ble Tribunal may kindly be pleased to direct the Revisional authority - The Director, ~~The~~ Postal Services, office of the Post Master General, Assam Region, Dibrugarh to dispose of the appeal

cont d...10

M. Biswas

avourably taking a lenient view for the first mistake in his long service life and further be pleased to pass an order ~~or~~ quashing the order of dismissal dated 28-2-2001 in the interest of justice.

(ii) To pass any other order or orders as deemed fit and proper by the Hon'ble Tribunal in the interest of justice.

9. INTERIM RELIEF PRAYED FOR :

In the interim applicant prayed for

Stay of the operation of the impugned dismissal order dated 28-02-2001 vide Annexure No. 2 in the interest of justice.

10. DETAILS OF POSTAL ORDER :

Postal order No. :- 7G574637

Date of Issue :- 16. 5. 02

Issued for from :-

payable at :- Guwahati.

11. LIST OF PARTICULARS :

As per Index :

Verification

M. Biswas

VERIFICATION

I, Sri Maheswar Biswas, Son of Late Nagar Biswas resident of Farmarpar, P.O. Kharikhana Via- Lanka, P.S. Lanka, Dist. Nagaon, Assam do hereby verifying that the contents in paragraph 1, 2, 3, 4, 6, 7, 10 and 11 are true to my knowledge and paragraphs 5, 8, 10 are believed believed to be true as legal advice and I have not supposed any material facts.

And I sign this Verification on this 16th day of May, 2002 at Guwahati.

Place : Guwahati.

Dated - 16.5.2002

Sri Maheswar Biswas

Signature of the Applicant.

M_E_M_O_R_A_N_D_U_M

Maheswar Biswas under ~~Kharakhan~~ proposes to hold an enquiry against Shri under Rule 8 of Extra Departmental Agents (Conduct & Service) Rules, 1964. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is sent out in the enclosed statement of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and list of witness by whom the articles of charges are proposed to be sustained are also enclosed (Annexure III & IV).

2. Shri Maheswar Biswas is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

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

4. Shri Maheswar Biswas is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person with the provisions of Rule of EDA's (Conduct & Service) Rules 1964 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ~~ex parte~~.

5. Attention of Shri Biswas is invited to Rule 25 of the EDA (Conduct & Service) Rules 1964 under which Government servant shall bring or attempt to bring any political outside influence to bear upon any superior authority to further interests in respect of matters pertaining to his service under the Govt If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri Biswas is aware of such a representation so that it has been made at his instance and action will be taken against him for violation of Rule 25 of the EDA (Conduct & Service) Rules 1964.

6. The receipt of this memorandum may be acknowledged.

Govind Bhowmik
(A. K. Biswas)

Supdt. of Post Offices
Nagao-n Dn. Nagaon-782 001

Regd/AD

To Maheswar Biswas

Shri EDBP&Kharakhan ETC (unrepresentative)

via Lakta 782446

Dist - Nagaon (Ass)

*Alkaid
Biswas
Answered*

R/Stamp = 140.00 - 0.57 = 24.3100 12.00/- 33.00/-
Total = Rs. 7970.00 - 0.56 = 44.52 103.82/-
0.14 = 20.99 - 2.60/-
0.18 = 6.09970, 352/- Cont'd on.....2

Article - I

That the said Sri Maheswar Biswas while working as EDBPM, Kharikhana EDBO during the period from 8.1.79 to 22.7.99 could not produce cash and stamps amounting to Rs. 7052.00 (Rs. seven thousand fifty two) only to the SDI of POs Hojai Sub Dn. on 22.07.99 for verification. According to B.O Account the cash and stamp balance of the BO at the close of 22.07.99 was Rs. 7365.00 (Rs. seven thousand three hundred sixty five) only but the EDBPM could produce only cash and stamps amounting to Rs. 313.00 (Rs. three hundred thirteen) only to the said SDI of POs for physical verification. Thus, the said Sri Maheswar Biswas EDBPM Kharikhana EDBO in a/c with Lanka S.O violated the provisions of Note below Rule-11 of Rules for Branch Offices and failed to maintain absolute integrity and devotion to duty as required under provision of Rule-17 of EDAs (Conduct & Service) Rules, 1964.

Article - II

The said Sri Maheswar Biswas during the aforesaid period accepted a sum of Rs. 2100.00 (Rs. two thousand one hundred) only from the remitter being the value and commission of Kharikhana BO MO No.08 dated 06.07.98 for Rs. 2000/- only payable to Sri Amarendra Chowhan P.O Ahirouli Dist Deoria (U.P) but this amount so accepted was not credited in the Branch Office Account on that day i.e 06.07.98 or subsequently by the EDBPM Kharikhana EDBO and the relevant MO form was also not sent to the Account Office for further disposal. Thus, Sri Biswas thereby violated the provisions of Rule 124 of the Rules for Branch Offices and also failed to maintain absolute integrity and devotion to duty as enjoined in the Rule 17 of EDAs (Conduct & Service) Rules, 1964.

Article-III

Against

The said Sri Maheswar Biswas during the aforesaid period accepted a sum of Rs. 1200/- (Rs. one thousand two hundred) only on 29.1.99 as SB deposit/Kharikhana BO SB a/c No. 284571 on the name of Smt Sandhya Kharikap, made deposit entries in the pass book but the amount so accepted from the depositor was not credited in the Branch Office Account on the day of deposit or any subsequent date and thereby he violated the provision of Rules 132 (f) and 133(2) of the Rules for Branch Offices. By his above acts he also failed to maintain absolute integrity and devotion to duty as enjoined in the Rule 17 of EDAs conduct & service Rules, 1964.

Statement of imputation of misconduct or misbehaviour in support of the articles of charge framed against Sri Maheswar Biswas EDBPM Kharikhana EDBO in a/c with Lanka S.O. (under pay off duty)

Article - I

That Sri A Hye, SDI of POs Hojai Sub Dn. Hojai visited Kharikhana EDBO on 22.07.99 accompanied by the O/S Mails at 12.00 hrs and verified the cash and stamps of the BO at the closing hours. According to BO Account prepared the cash and stamp balances of the B.O as on 22.07.99 ought to have been as under :-

| | | | | |
|---------|---------------|-------------------------|-------------------------|-------|
| Cash | = Rs. 7510.00 | - 0.68 | = 6/10/99 - 2100/- | 2052 |
| P/stamp | = " | 320.00 | - 0.57 = 24/2/00 1200/- | 3702 |
| R/stamp | = " | 140.00 | - 0.56 = 4452 | 10352 |
| Total | = Rs. 7970.00 | - 0.14 = 20.9.99 - 2600 | Cont'd on....2 | |

0.18 - 6.10.99 70,352 ✓

an equal amount of cash and stamps was only found available with the BPM.

| | | |
|---------|---|------------|
| Cash | = | Rs. 260.00 |
| P/Stamp | = | " 43.00 |
| R/Stamp | = | " 10.00 |
| <hr/> | | |
| | | Rs. 313.00 |

The SDI of POs, further found that RD final withdrawal voucher for Rs. 1741/- against RD A/C No. 301430, stated to be paid to the depositor after despatch of the day's account was available with the BPM.

The BPM also did not credit the amount of Rs. 1056/- realised on delivery of 7 (seven) VP articles in the B.O Account.

A revised Daily Account of the B.O was got prepared by the BPM taking into account all the above unaccounted items. The same is as under:-

| | | |
|-------------------------|---|---------------|
| O/B | = | Rs. 7964.00 ✓ |
| Amt realised from | | |
| Unpaid articles | = | " 86.00 ✓ |
| M.O issue (VP delivery) | = | " 1056.00 ✓ |
| <hr/> | | |
| RD withdrawal | = | 9106.00 ✓ |
| | | 1741.00 ✓ |
| <hr/> | | |
| C/B | = | 7365.00 ✓ |

Thus there was a net ~~xx~~ shortage of Rs. 7052.00 (Rs. 7365-313.00) which was charged as UCP in B.O Account on Kharikhana EDBO dated 22.07.99. The amount found short was stated to be spent for his personal purpose and Sri Biswas could not produce the amount on the date. It is, therefore, imputed that Sri Moheswar Biswas EDBPM Kharikhana EDBO in a/c with Lanka S.O by his above act violated the provisions of Note below Rule-11 of the Rules for Branch Offices. It is further imputed that Sri Moheswar Biswas failed to maintain absolute integrity and devotion to duty and violated the provisions of Rule 17 of EDAs (Conduct & Service) Rules, 1964.

Article - II

That the said Sri Moheswar Biswas while functioning as EDBPM Kharikhana EDBO for the period from 8.1.79 to 22.7.99 accepted a sum of Rs. 2100/- (Rs. two thousand one hundred) only from the remitter being the value and commission of Kharikhana BO MO No. 08 dated 06.07.98 for Rs. 2000/- (Rs. two thousand) only payable to Sri Amarendra Chowhan P.O Ahirouli Dist Deoria (UP) and remitted by Sri Siva Sankar Chowhan Vill Manduli P.O. Kharikhana via Lanka duly granting proper receipt to the remitter in form MS-87(a) in token of having received the amount, but this amount was not credited in the Branch Office Account on that day on 06.07.98 or any subsequent dates by the EDBPM Kharikhana EDBO and the relevant MO form was also not sent to the Account Office Lanka for re-issue of the B.O M.O accepted from the remitter at the time of issuing the money order. It is therefore, imputed that Sri Moheswar Biswas thereby violated the provision of Rule 124 of the Rules for Branch Offices and also failed to maintain absolute integrity and devotion to duty as enjoined in Rule 17 of EDAs (Conduct & Service) Rules, 1964.

Article - III

That the said Sri Maheswar Biswas while functioning as EDBPM Kharikhana EDBO during the period from 8.1.79 to 22.7.99 had duly accepted a sum of Rs. 1200/- (Rs. one thousand two hundred) only from the depositor on 29.1.99 against Kharikhana

Cont'd on....3

made entry of the deposit in the relative pass book under his initial and with the BO date stamp impression of the respective date of deposit. But the said Sri Maheswar Biswas did not make entry of the deposit in Kharikhana Branch Office journal and did not credit the said deposit in the Kharikhana Branch Office Account in the date of deposit or subsequently. It is, therefore, imputed that the said Sri Maheswar Biswas violated the provisions of Rules 132 (f) and 133(2) of the Rules for Branch Offices.

It is further imputed that by his above acts, he failed to maintain absolute integrity and devotion to duty as enjoined in the Rule 17 of EDAs (Conduct & Service) Rules, 1964.

Annexure - III

List of documents by which the articles of charge framed against Sri Maheswar Biswas EDBPM Kharikhana EDBO in a/c with Lanka S.O. (under put off duty) are proposed to be sustained.

1. ~~Kharikhana~~ B.O. Account Book of Kharikhana BO for the concerned period.
2. B.O Journal of Kharikhana BO for the concerned period.
3. B.O. SB journal of Kharikhana BO for the concerned period.
4. M.O Receipt Book of Kharikhana BO for the concerned period.
5. Written statement of Sri Maheswar Biswas EDBPM Kharikhana B.O dated 22.7.99.
6. Kharikhana BO SB pass book of a/c No. 284571 in the name of Smt Sandhya Kharikap.

List of witnesses by whom the articles of charge framed against Sri Maheswar Biswas EDBPM Kharikhana EDBO in a/c with Lanka S.O are proposed to be sustained.

1. Sri A. Hye, SDI of POs, Hojai Sub ^{Author} Hojai-782435.

A. K. Biswas
(A. K. BISWAS)
Supt. of Post Offices
Nagaon Dn. Nagaon-782001

1. Read the following :-

- 1) This office memo No. F6-02(C)/99-00 dated 19.09.2000.
- 2) The written statement of defence dated 30.09.00 submitted by Sri Maheswar Biswas, EDBPM Kharikhana EDBO in a/c with Lanka S.O.
- 3) The ~~Inquiry Report~~ of the Inquiring Authority vide his letter no. A-1/Inquiry/Rule-8/3 dated 06.12.00.
- 4) The written representation dated 10.01.2001 submitted by Sri Maheswar Biswas EDBPM (under put off-duty) in a/c with Lanka S.O.

2. Sri Maheswar Biswas ED3PM, Kharikhana EDBO (under put off duty) in account with Lanka S.O. was proceeded under Rule-8 of EDAs (Conduct and Service) Rules, 1964 vide this office memo No. F6-02(C)/99-00 dated 19.09.2000. The articles of charge, the statement of imputation of misconduct or mis-behaviour in support of the articles of charge framed against the said Sri Maheswar Biswas, the list of documents by which and the list of witnesses by whom the articles of charge proposed to be sustained were annexed as Annexure I,II,III & IV.

3. The articles of charge framed against Shri Maheswar Biswas are as under :-

Article - I

That the said Sri Maheswar Biswas while working as EDBPM, Kharikhana EDBO during the period from 8.1.79 to 22.7.99 could not produce cash and stamps amounting to Rs. 7052.00 (Rs. seven thousand fifty two) only to the SDI of POs Hojai Sub Dn. on 22.07.99 for verification. According to B.O Account the cash and stamp balance of the B.O at the close of 22.07.99 was Rs. 7365.00 (Rs. seven thousand three hundred sixty five) only but the EDBPM could produce only cash and stamps amounting to Rs. 313.00 (Rs. three hundred thirteen) only to the said SDI of POs for physical verification. Thus, the said Sri Maheswar Biswas EDBPM Kharikhana EDBO in a/c with Lanka S.O violated the provisions of Note below Rule 11 of Rules for Branch Offices and failed to maintain absolute integrity and devotion to duty as required under provision of Rule-17 of EDAs (Conduct & Service) Rules, 1964.

Article - II

The said Sri Maheswar Biswas during the aforesaid period accepted a sum of Rs. 2100.00 (Rs. two thousand one hundred) only from the remitter being the value and commission of Kharikhana BO MO No. 08 dated 06.07.98 for Rs. 2000/- only payable to Sri Amarendra Chowhan P.O Ahirouli Dist Deoria (U.P) but this amount so accepted was not credited in the Branch Office Account on that day i.e. 06.07.98 or subsequently by the EDBPM Kharikhana EDBO and the relevant MO form was also not sent to the Account Office for further disposal. Thus, Sri Biswas thereby violated the provisions of Rule 124 of the Rules for Branch Offices and also failed to maintain absolute integrity and devotion to duty as enjoined in the Rule 17 of EDAs (Conduct & Service) Rules, 1964.

Cont'd on.....2

The said Sri Maheswar Biswas during the aforesaid period accepted a sum of Rs. 1200/- (Rs. one thousand two hundred) only on 29.1.99 as SB deposit against Kharikhana B.O SB a/c No. 284571 on the name of Smt Sandhya Kharikap, made deposit entries in the pass book but the amount so accepted from the depositor was not credited in the Branch Office Account on the day of deposit or any subsequent date and thereby he violated the provision of Rules 132 (f) and 133 (2) of the Rules for Branch Offices. By his above acts he also failed to maintain absolute integrity and devotion to duty as enjoined in the Rule 17 of EDAs conduct & service Rules, 1964.

4. Sri Maheswar Biswas was given an opportunity to submit a written statement of his defence within 10 (ten) days of receipt of the said charge memo dated 19.09.2000. Sri Maheswar Biswas submitted his written statement of defence dated 30.9.2000 which was received by this office on 04.10.2000.

5. Sri K.M. Nath, SDIPO's Nagaon (West) Sub Dn. Nagaon and Sri J.K. Nath, C.I Divl Office Nagaon were appointed as Inquiry Authority and Presenting Officer respectively vide this office memo of even no. dated 10.10.2000.

6. The Inquiry Authority submitted his Inquiry Report on 19.12.2000.

7. The said Sri Maheswar Biswas was given a copy of the report to submit his representation, if any, vide this office letter of even no. dated 20/22.12.2000 and he submitted his written representation dated 10.01.2001, which was received by this office on 15.01.2001.

8. Observations and Findings

8.1. The undersigned has gone through the Inquiry report and the charged official's written statement of defence dated 30.09.2000 and written representation dated 10.01.2001 very carefully. At preliminary hearing held on 29.11.2000, the charged ED official admitted the charge framed against him. The Inquiry Authority in his findings held that on the basis of the admission of the charge by the charged ED official, the charge framed against him stood proved.

8.2. In his written representation dated 10.01.2001 against the Inquiry Report, the charged ED official admitted the charge framed against him and represented the following :-

i) He had been working as EDBPM Kharikhana w.e.f 8.1.79 honestly and sincerely. The income derived from his job as EDBPM is his only earning source for maintenance of his poor family. Finding no other alternative means to manage money for his son's treatment, he did the mistake and spent the Govt money for his son's immediate treatment to save his life with the hope that subsequently he would somehow manage the money and make good the amount to the Govt. His son could not recover properly and became blind.

ii) In Rule-8 inquiry case (preliminary hearing), he confessed his guilt.

iii) He has no other source of income except income from the job of EDBPM. He requested for to consider his case sympathetically on this ground considering the circumstances in which he had to spend the Govt money.

Rs. 7052.00 on 22.7.99. The Article-II relates to non-
dated 06.07.98 for Rs. 2000.00 and Article-III relates to non-
credit of deposit of Rs. 1200.00 on 29.1.99, which was accepted
from the depositor Smt Sandhya Kharikap to deposit in her a/c
no. 284571. So, his misdemeanour was not for a particular day
but on the different dates. After issue of this office charge
memo dated 19.09.2000, non-credit of RD deposits amounting
Rs. 10,250/- during aforesaid period of his incumbency has come
to notice and the depositors have preferred their claims for
this non credited amounts. There are likely more noncredits.
So, he continued and repeated his misdemeanour. His plea for
spending the Govt money is not acceptable.

8.4 As the charged ED official has no other source of income, he has, therefore, lost his main source of income and he should be adjudged as incurring a disqualification to continue as EDBPM. There must be absolute insistence on the adequate source of income of EDBPM and the allowances paid for his work as EDBPM is nothing but just supplementary to his income. The charged ED official disqualifies himself to continue as EDBPM.

Considering the gravity of offence committed and the past record of his service, the undersigned is left with no other option to conclude that Sri Maheswar Biswas is unlikely to rectify himself and given an opportunity is likely to repeat such misdemeanour. The undersigned deems Sri Maheswar Biswas unfit to continue in service.

ORDER

The undersigned, Shri A.K. Biswas, Supdt. of Post Offices, Nagaon Division, Nagaon and Disciplinary Authority hereby orders that Shri Maheswar Biswas, EDBPM, Kharikhana EDB.O. (under put off duty) is 'Dismissed' from service with immediate effect.

SD/- (A.K. BISWAS)
Supdt. of Post Offices
Nagaon Dn. Nagaon-782001

Copy to :

Reqd

1. Shri Maheswar Biswas, EDBPM, Kharikhana EDB.O. (under put off duty) via Lanka S.O. for information.
2. The Postmaster, Diphu H.O. for infn & n/ action.
- 3-4. The Postmaster General (C&I)/(Staff), Assam Region, Guwahati-781001.
- 5-6. The Estt/Plg branch, Divl Office, Nagaon.
7. The Staff Branch, Divl Office, Nagaon.
8. The SDI(P), Hojai Sub DN, Hojai.
- 9-10. O.C./Spare.

Comd Bommury
Supdt. of Post Offices
Nagaon Dn. Nagaon-782001

To

The Director, Postal Services,
Office of the Postmaster General,
Assam Region,
DIBRUGARH - 786001.

Through the Superintendent of Post Offices,
Nagaon Division, Nagaon. 782001.

Dated : Nagaon, the 10th July, 2001.

SUB : APPEAL AGAINST THE ORDER OF DISMISSAL VIDE MEMO
NO : Fo-02(c)/99-00, DATED 28/02/2001.

Sir,

I have the honour to prefer an appeal against the Order, vide memo No : Fo-02(c)/99-00, dated 28/02/2001, issued by the Superintendent of Post Offices, Nagaon Division, Nagaon, for favour of your kind consideration and favourable orders. I could not prefer the appeal in prescribed time as I fell ill on receipt of the above order. Now, I have since recovered from illness and I prefer the appeal against the above noted punishment order and prayed for consideration for its acceptance.

That Sir, I was working as E.D. B.P.M at Kharikhana, EDBO a/c with Lanka S.O., under Diphu H.O., since 03/01/79, i.e. more than 20 years. During this period, I was working honestly and sincerely. This was my only earning source for maintaining my poor family. With the income of my Job as E.D. B.P.M., I somehow maintained my family.

I was charged vide SPOs/Nagaon memo No : Fo-02(c)/99-00, dated 19/09/2000 to hold an enquiry against me under Rule 8 EDAs (Conduct & Service) Rules 1964. In the Memo of Charges there are three articles of charges :-

Article I.

Relates to shortage in the B.O Cash Balance of Rs. 7,052.00 on 22/07/99.

Contd..... 2.

*Attested
R.S. Ghosh
Advocate*

Article II.

Relates to non-credit of Rs. 2,100'00, being the value and commission of B.O.M.C No : 03, dated 06/07/93 for Rs. 2,000'00

Article III.

Relates to Non-credit of Rs. 1,200'00 in S.B Deposit on 29/01/99.

Total amount of non-credit, as per Memo of charges, was Rs. 10,352'00 only and the whole amount was subsequently credited to the Govt. by me.

Besides this, I was further informed verbally that there were some non-credits in R/D a/cs also amounting to Rs. 10,250'00. But particulars of the R/D a/cs against which non-credits occurred were not furnished. Out of Rs. 10,250'00, I have already deposited Rs. 3,500'00 vide Hojai Post Office Receipt No : 96, dated 11/09/00.

On rule-8 inquiry - in preliminary hearing, I, pleaded guilty and admitted the charges brought against me in the memo of charges and I explained the circumstances in which the non-credits of the amount ^{occurred} accrued in the statement of defence and the written representation.

That Sir, since my joining as E.D B.P.M on 03/01/79 i.e., more than 20 years, I, discharged my duties honestly and sincerely. There was no spot in my service life. But suddenly my son fell ill and gradually it became serious. I could not give him proper treatment for want of money. I tried my best to lend money from Money-Lender but I could not manage it. Then I wanted to keep mortgage of my land and dwelling house, the only property I have, to save the life of my son whose condition became bad to worse. But no body wanted to keep mortgage of my house and land. As I could not manage the money to render proper treatment to my son whose condition became worse, I was mentally

Contd..... 3.

- : (3) : -

disturbed. Finding no other alternative way to save the life of my son, I was overcome by the circumstances and did the mistake and incurred the Govt. money for rendering immediate proper treatment to my son to save his life though it was already delayed. It was hoping that somehow I managed to get the money and made good to the Govt. in a short period of time. But alas my son could not recover properly and he became blind.

Somehow I made good the charged amount of Rs. 10,352'00 and prayed for sympathy and mercy to the authority to exonerate the charges brought against me considering the circumstances under which it happened and to save my poor family from starving as this is my only job to maintain the family.

In the memo of order, it was mentioned as _____
 "as the charged E.D. Official has no other source of income, he has therefore lost his main source of income and he should be adjudged as incurring a disqualification to continue as ED BPM. There must be absolute insistence. On the adequate source of income of E.D B.P.M and the allowances paid for his work as EDBPM is nothing but just supplementary to his income. The charged ED Official disqualifies himself to continue as ED BPM."

The job of ED BPM was my main source of income and it was not my supplementary income. I was disqualified to continue as ED BPM as my main source of income was lost. If it is so, my whole family will die in starving. I have actually no other source of income except the job of ED BPM. For the check of humanity, I, prayed for, to save my poor family in starving. Considering the fate of my son who became blind.

It was come to notice to the authority that there were non-credit of A/D deposits amounting Rs. 10,250'00. I was informed to credit the amount verbally. No particulars of such non-credits were furnished. Out of the above amount, I have already deposited Rs. 3,500'00. As, at present I have no job, I am in

Contd.....4

- : (4) : -

hardship and I could not make good the balance amount. The balance amount may be recovered from my allowances in instalments if I am given a chance considering my pecuniary conditions.

In the memo of order, it was suspected that if I was allowed to continue as ED BPM., I, might repeat my misdemeanour. But presumption for future occurrence is not always to be true. This was my first guilty in my long service life. It happened under some un-avoidable circumstances for which I, beg to apology. I, promise to assure you that such thing will never happen in future.

Therefore, with profound apologies, I, beg for your mercy and to pray your honour to set aside the punishment order of dismissal and save me and my poor family in starving, for which act of kindness I shall remain ever grateful to you.

Yours faithfully,

(MAHESWAR BISWAS)
Ex. B.P.M., Khatikhana B.O.,
Via Lanka S.O.

Copy in advance to :-

The Director, Postal Services,
Office of the Postmaster General, Assam Region,
Dibrugarh - 786001, for favour of information and necessary
action.

(MAHESWAR BISWAS)

To

The Director, Postal Services
Office of the Post Master General,
Assam Region, Dibrugarh-786001.

Through the Superintendent of Post Offices,
Nagaon Division, Nagaon-782001.

Dated the 25th February, 2002.

Sub :- Appeal against the order of dismissal vide
Memo No. FB-01(C)/99-00 dated 28-02-2001.

Sir,

Most humbly and respectfully, I beg to submit the following lines for favour o your kind consideration and sympathetic order -

That Sir, I preferred an appeal against the order vide Memo No. F6-02(C)/99-00 dated 28-02-2001 passed by the Superintendent of Post Offices, Nagaon Division, Nagaon for favour of your kind consideration and favourable orders :

That Sir, I was working as EPBPM at Kharikhana EDBO a/c with Lanka S.O. under Diphu H.Q. since 03-01-79 i.e. more than 20 years. During this period, I was working honestly and sincerely. This was my only earning source of livelihood.

That Sir, these were some non credit of R/D deposits amounting Rs. 10,250.00 . Though no particulars of such non credit were furnished , I have deposited Rs.3,500.00 out of the above amount. At present, I have no job, I am in hardship and I could not make good the balance amounts. The balance amount may be recovered from my allowances in instalments if I am given a chance considering my pecuniary condition. It happened under

contd...2

Copy to be
true Copy of
B. D. Sarker
Advocate

Some unavoidable circumstances for which I, beg to apologize/pardon. I, promise to assure your honour that such things will never occur in future.

Therefore, with profound apologies, I beg for your mercy and to pray your honour to set aside the punishment order of dismissal and save me and my poor family in starving, for which act of kindness I shall remain ever grateful to you.

Yours faithfully,


(Maheswar Biswas)
Ex-B.P.M. Kharikhana B.O.
Via- Lanka S.O.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI.

Filed by

(A. DEBNAY)
SRI. C. C. S. C.
C. A. T. Guwahati 22

O.A.NO. 157 OF 2002

Sri Maheswar Biswas.

-vs-

Union of India & Ors.

- And -

In the Matter of ::

Written statement submitted by
the respondents.

The respondents beg to submit written statement
XMM as follows :-

1. That with regard to paras 1, 2, 3 of O.A., the respondents beg to offer no comments.
2. That with regard to para 4.1 of O.A., the respondents beg to state that Sri Maheswar Biswas of Village Farmapar P.O. Kharikhana via Lanka, Dist. Nagaon (Assam) joined in this Dept as ^{EDDA} EDDA Kharikhana on 20.12.74 and worked as such upto 7.1.79. On 8.1.79, he was appointed as EDEPM Kharikhana EDBO as thus he had been working as EDBPM upto 22.7.99. He was paid monthly allowance as per rate admissible under rules. He never joined in service as Mail O/S Lunding on 20.12.74 since the post of Mail O/S is a departmental post and as such his statement is not correct.

Contd....P/2

3. That with regard to para - 4.2 of O.A., the respondents beg to state that Sri Maheswar Biswas EDBPM, Kharikhana EDBO was charge sheeted under Rule-8 of EDAs (Conduct & service) Rules, 1964 vide Supdt of Post Offices, Nagaon Dn. Nagaon memo no. F6-02 (C)/99-00 dated 19.9.2000 with the following charges.

i) While verifying the cash and stamp balance by the SDI of POs Hejai Sub Dn. on 22.07.99, found short a sum of Rs. 7052.00 in the Office cash/stamp balance. Sri Maheswar Biswas could not produce before the Sub Divisional Inspector of Post Offices Hejai the above said amount for his physical verification.

ii) Sri Biswas accepted a sum of Rs. 2100.00 from the remitter being the value and commission of Kharikhana BO, MO No. 08 dated 06.07.98, but he did not credit the money order amount ~~to~~ accepted from the remitter in the BO Account on that day or subsequently.

iii) Sri Biswas also accepted a sum of Rs. 1200/- from the depositor being the SB deposit against Kharikhana BO SB a/c no. 284571 on 29.1.99 but did not credit the amount of SB deposit accepted from the depositor in the BO Account of Kharikhana ~~from the deposit in the BO account~~ EDBO on the very date of deposit or subsequently.

The charged ED official however credited the ~~sum~~ following amounts towards recruitment of less substained by the Govt.

Rs. 2600.00 on 20.9.99
Rs. 2100.00 on 6.10.99
Rs. 4452.00 on 24.2.00
Rs. 1200.00 on 24.2.00

Rs. 10352.00
~~*****~~

While carrying out verification of past work of the ED official further non-credits against 9(nine) Recruiting Deposit (RD) accounts amounting to Rs. 10,250.00 was detected out of which the charged ED official deposited a sum of Rs. 3,500.00 at Hojai Post Office as UCR on 11.9.2000 being partial recovery of further less detected subsequently and as such it is evident that he was aware of the ~~other non credits also committed by him as he admitted it~~ fact of these non furnishing of their particulars to him is not acceptable.

In the preliminary hearing held by the Inquiring Authority the charged ED official pleaded guilty and admitted the ~~any~~ charges brought against him. He also explained the circumstances leading to the incident of personal use of the Govt. money. From the details of the non-credits in SB/RD accounts, non-credits were found from the year 1996 to 1999, covering a long period. What he did was not for a day or two and it was not accidental. The process of non-credits ~~was~~ ~~from~~ ~~1996 to 1998~~ continued for a long and it appears to be quite intentional. Financial insolvency is no excuse for committing defalcation. A Postmaster in ~~Govt. Treasury and Govt. money has to vindicate the trust imposed~~ charge of ~~on him by the~~ true discharge of his duties honestly and sincerely. Tendering apology is not an excuse for the breach of trust. In the instant case Sri Biswas committed the mistake not on single occasion, he continued and repeated the ~~misdemeanour~~. His plea for spending Govt. money is, therefore, not acceptable.

4. That with regard to para - 4.3 of O.A., the Respondents beg to offer no comments since the Appeal preferred by the Applicant is due to be decided by the Director of Postal Services Dibrugarh Region, Dibrugarh.

5. That with regard to para - 4.4 of O.A., the respondents beg to state that Sri Biswas committed serious offence by repeating the same mistake of non-crediting Govt money accepted from ~~xxx~~ the depositors covering a period of 4 years. In the charge memo the shortage of cash, non-credit of SB and M.O. amounts were included which prove that committing of fraud by him was a continuous process.

- a) He kept short a sum of Rs. 7052/- in his office cash balance on 22.7.99, this misappropriated the amount in his personal purpose.
- b) He did not credit a sum Rs.2100.00 in the B.O. Account on 6.7.98 being the value and commission of Kharikhana B.O MD No. 08 dtd.6.7.98 accepted from the remitter. He again misappropriated another amount of Rs. 2100.00 on 6.7.98.
- c) He did not credit a sum of Rs. 1200.00 as SB deposit accepted from the depositer on 29.1.99 against SB A/C No. 284571.

Sri Biswas has tried to prove that he made the mistake of spending Govt. Money once only to save his ailing son, but miserably he has failed to establish it. From the above it appears that he misappropriated the Govt money on ~~xxx~~ three different dates which ~~xxx~~ implies that spending of Govt. money in single occasion (Only for his son's treatment) is not at all correct. Had it been so, no further non-credit could be detected except the shortage of cash in office cash balance on 22.7.99. It may be mentioned further that spending of Govt. money in personal purpose covering a period of 4 years, for treatment of his son cannot be tolerated under any circumstances, and it also cannot be termed as accidental. Rather it is quite intentional that deserves ~~xxx~~ severe punishment.

The fact that he made good the Govt in no way diminishes the offence, committed by the charged ED official, whatever the circumstances may be, the facts remain that the offence was committed and the trust breached and therefore he is unlikely to rectify himself and given an opportunity is likely to repeat such misdemeanour.

6. That with regard to para - 4.5 of O.A., the Respondents beg to state that the offence committed by Sri Maheswar Biswas is serious. He repeated the mistake on several occasions and as such his fraudulent nature cannot be overlooked. It is his futile attempt to prove himself innocent seeking sympathy for his son's treatment and praying for mercy. Considering the gravity of the offence, there was no other option than to finalise the disciplinary case against him awarding the punishment of dismissal from service.

6. That with regard to para - 5 of O.A., the respondents beg to state that the Disciplinary Authority finalised the disciplinary case against Sri Maheswar Biswas vide memo No. F6-02(C)/99-00 dated 28.2.01 and awarded punishment of dismissal from service with immediate effect carefully considering the gravity of offence committed.

ii) The order for dismissal from service against Sri Maheswar Biswas was passed carefully considering all the facts. It is according to the merit of the case.

iii) The offence committed by Sri Maheswar Biswas is of serious nature and deserved severe punishment. He committed fraud covering a period of 4 years rendering a loss of Rs. 22402.00 to the Department. It

is a fact that he made good some amounts towards partial recovery of loss but it no way diminishes the offence shortage in office cash balance, issue of money order, deposit in savings Bank/ Recurring Deposit accounts on different dated for the period from 1996 to 1999 is quite intentional. The punishment awarded to him is quite justified and according to the merit of the case.

iv) The circumstances under which he misappropriated the Govt. money are not acceptable. His practise of spending Govt Money in personal purpose throughout a long period is not at all exonerable since he made mistake not for once but on ~~several~~ several occasions.

v) The Appeal preferred by Sri Maheswar Biswas will be decided by the Director of Postal Services, Dibrugarh Region, Dibrugarh.

vi) As per ~~rules~~ rules of the department, Extra Departmental Agents are paid time related consolidated allowance (TRCA) based on the work load of the Branch Post Office in which in EDBPM is working. As it is a part ~~of~~ time job in nature, it is a supplementary income on the part of an ED Agent as per Rule of the department.

vii) The Appeal preferred by Sri Maheswar Biswas will be decided by the Director of Postal Services, Dibrugarh Region, Dibrugarh.

viii) Not based on fact.

7. That with regard to para - 6 & 7 of O.A., the respondents beg to offer no comments.

8. That with regard to para - 8.(i) of O.A. the respondents beg to state that the charged officer committed fraud continuously ~~4~~ years and thus the order passed under memo dated 28.2.2001 is not quashable.

9. That with regard to para - 8.(ii) of O.A., the respondents beg to offer no comments.

10. That with regard to para - 9 of O.A., the respondents beg to state that the same is not maintainable.

V E R I F I C A T I O N

VERIFICATION.

I, Shri Helaluddin Ahmed presently working as Supdt. of Post Offices, Nagpur be duly authorised and competent to sign this verification, do hereby solemnly affirm and declare that the statements made in para 2, 4, 5, 6 and 8 are true to my knowledge and belief, these made in para 1, 3, 5 being matter of records, are true to my information and the rest are my humble submission before the Hon'ble Tribunal, I have not suppressed any material facts.

And I sign this verification on this 29th day of July 2002.


Declarant.