

10

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 169/2007

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet.....OA.....Pg. 1.....to 9.....
2. Judgment/Order dtd. 20.01.2010.....Pg. 1.....to 13 Dismissal
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....169/2007.....Pg. 1.....to 83
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
- ✓ 7. W.S.....Pg. 1.....to 8
- ✓ 8. Rejoinder.....Pg. 4.....to 3
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendement Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Bahli
04/10/17

ORDER SHEET

Contd...

Contd.
27.6.2007

Applicant filed a revision petition and the Member (Personal) set aside the punishment and remitted back the matter for to the Disciplinary Authority denovo proceeding. But the said authority vide order dated 6.12.2006 again imposed the same punishment against which the O.A. is preferred.

Heard Dr. J. L. Sarkar, learned counsel for the Applicant. Mr. G. Baishya, learned Sr. C.G.S.C. appearing for the Respondents submitted that notice should be issued to the Respondents.

Considering the issue involved I am of the view that the O.A. has to be admitted. Admit the O.A. Issue notice to the Respondents.

Post on 10.8.2007.

Vice-Chairman

/bb/

24.9.07

Call on 4.10.07 awaiting acknowledgement of notice/WS from the respondents.

Vice-Chairman

Notice & order
Sent to D/Section
for issuing to
resp. nos. 1 to 4
by regd. A/D post.
D/No-673 to 675
9/6/07. Dt: 6/7/07.

① Service report
awaited.

21.9.07.

10/6/07 not biled.

3.10.07.

O.A. 169/07 - 3

3

04.10.07.

Call this matter on 20.11.07 awaiting reply from the respondents.

14.11.07
W/S filed by the
Respondents Nos. 1, 2, 3, Copy
received.

[Signature]

lm

(Khushiram)
Member(A)

[Signature]
Monoranjan Mahanty
Vice-Chairman

W/S filed

[Signature]
19.11.07.

20.11.07. Written statement has not been filed in this case as yet.

Call this matter on 20th December, 2007 awaiting reply from the Respondents.

W/S not filed

[Signature]
20/11/07

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

Lm

W/S not filed

[Signature]
19.12.07

20.12.2007

No written statement has yet been filed in this case by the Respondents. Mr.G.Baishya, learned Sr. Standing counsel for the Union of India seeks some more time to ensure filing of written statement.

Call this matter on 18.01.2008 awaiting written statement from the Respondents.

Send copies of this order to all the Respondents.

(M.R. Mohanty)
Vice-Chairman

order dt. 20/12/07
sent to D/Section
for issuing to
resp. nos. 1 to 4 by
~~reg. A/D~~ post.

/bb/

[Signature]
26/12/07. D/No-1939 to
1937
Dt = 27/11/07.

W/S not filed

[Signature]
17.1.08.

O.A. 169/2007

18.01.2008

Mr.G.Baishya, learned Sr. Standing counsel for the Union of India enters appearance for the Respondents by filing his appearance memo today. He seeks more time to file written statement.

Call this matter on 29.02.2008 awaiting written statement from the Respondents.

Send copies of this order to the Respondents in the address given in the O.A.

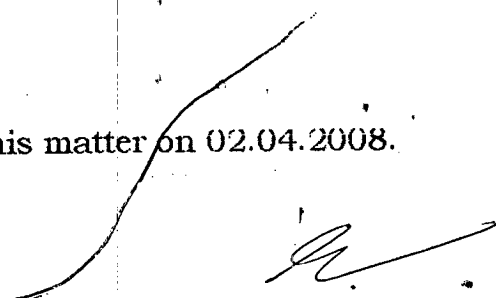

(Khushiram)
Member (A)


(M.R.Mohanty)
Vice-Chairman

/bb/

29.02.2008

Call this matter on 02.04.2008.


(Khushiram)
Member (A)

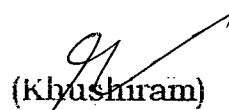
lm

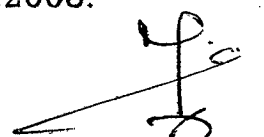
02.04.2008

In this case, written statement has already been filed by the Respondents, Since 30th January, 2008, No rejoinder as yet been filed in this case.

Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents, should cause production of disciplinary proceedings records on the next date of hearing.

Call this matter on 23.05.2008.


(Khushiram)
Member(A)


(M.R.Mohanty)
Vice-Chairman

lm

Dt 18.1.08

P.L. send order copies to the Respondents

order dt- 18/01/08 sent to D/Section for issuing to resp. nos. 1 to 4 by post.

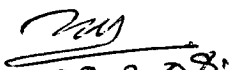
21/01/08. D/No-291 to 299
Dt= 22/1/08.

30.1.08

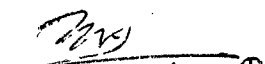
W/s filed by The Sp. C.S.C. on behalf of the Respondents at page Nos 84 to 91 with a copy to the L/Advocate for the applicant.

~~W/s filed~~


W/s filed.


28.2.08.

W/s filed.


01.04.08

W/s filed.


22.5.08.

23.05.2008

None appears for the Applicant nor the Applicant is present. Dr.J.L.Sarkar, learned counsel appearing for the Applicant has filed a leave note for to-day. Mr.G.Baishya, learned Sr.Standing counsel appearing for the Respondents however, is present. He undertakes to produce the Disciplinary proceedings records on the next date.

Call this matter on 25.7.2008.

W/S filed.

my

24.7.08

(Khushiram)
(Member(A))

(M.R.Mohanty)
Vice-Chairman

25.07.2008

On the prayer of learned counsel appearing for the Applicant, the case is adjourned to 22.08.2008 for hearing.

W/S filed.

my

21.08.08

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

lm

Dl 22.8.08

Copy of this order be handed over to Mr.G.Baishya, Ld. SGSC.

25/8/08

22.08.08

On the prayer of Mr G. Baishya, learned Sr. Standing counsel (made in presence of Dr J.L.Sarkar) call this matter on 24.09.2008; when the Respondents should cause production of the records through the learned Sr. Standing counsel.

Copy of this order be handed over to Mr G.Baishya, learned Sr. Standing counsel.

copy received for Mr. G. Baishya Sr. C. G. SC 19.08

The case is ready.

my

23.9.08

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

O.A.169/2007

24.09.2008

On the prayer of Dr.J.L.Sarkar, learned counsel appearing for the Applicant, call this matter on 8th December, 2008 for hearing.

W/S filed.

5.12.08

/bb/

(S.N.Shukla)
Member (A)

(M.R.Mohanty)
Vice-Chairman

8.12.08

Rejoinder submitted
by the Applicant.
Copy served.

08.12.2008

Rejoinder has been filed by the learned counsel for the Applicant today. Mr. G. Baishya, learned Sr. Standing Counsel for the Respondents seeks for six weeks time to file reply to the rejoinder.

Call this matter on 16th January, 2009.

(S.N.Shukla)
Member(A)

Vacation on 16.1.09.
Hence postponed to 19.1.09

lm

16.1.09

19.1.09

Bench is not available.
List on 20.2.09.

CO

The case is ready
for hearing.

19.2.09.

20.02.2009 Dr. J.L. Sarkar, learned counsel for the Applicant is present. Mr. G. Baishya, learned Sr. Standing Counsel representing the Respondents is also present.

Records of the disciplinary proceedings; should be produced by Mr. G. Baishya, learned Sr. Standing Counsel representing the Union of India. at the time of hearing.

Send copies of this order to the Applicant and to all the Respondents in the address given in the O.A.

Free copies of this order be handed over to Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents.

(M.R. Mohanty)
Vice-Chairman

18.03.2009

Call this matter on 28.04.2009.

(M.R. Mohanty)
Vice-Chairman

28.04.2009

Call this matter on 12.06.2009 for hearing.

(M.R. Mohanty)
Vice-Chairman

/lm/

20.2.09

Pl. send copies of this order to the Applicant and to all the Respondents in the addresses given in the O.A. Free copies of this order be handed over to Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents.

20.2.09

Copies of Order dt. 20-02-09 is prepared & sent to B/section for issue to the Respondent by post.

Free copy handed over to Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents by hand.

M. No. 859 to 864
3.3.09 8.3.09

pb

The case is ready for hearing.

17.3.09

lm

28
O.A. No. 169 of 07

12.06.2009 Call this matter on
05.08.1009 for hearing.

She case is ready
for hearing.

3
4.8.09. lm


(M.R. Mohanty)
Vice-Chairman

05.08.2009

Dr.J.L.Sarkar, learned counsel
appearing for the Applicant is present.

Call this matter on 15.09.2009 for
hearing.

Issue notice to the Respondents in
the address given in the O.A. requiring them
to come ready to participate in the hearing
on 15.09.2009.

Send copies of this order to the
Respondents in the address given in the O.A.


(M.K. Chaturvedi)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

She case is ready
for hearing.

15.09.2009

Call this Division Bench matter on
17.11.2009 for hearing.


(M.K. Chaturvedi)
Member (A)


/bb/

She case is ready
for hearing.

1711.2009

On the written request of Dr. J.L. Sarkar,
learned counsel for applicant case is
adjourned to 03.12.2009


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

/pb/

3
1/12/09

OA = 169/07

20.1.2010

Judgment pronounced in open Court. Kept in separate sheets. Application is dismissed.

28-1-2010.

Judgment/Final order dated 20.1.2010 prepared and sent to the D/Secy for issuing the application/ all the respondents by post and issued to Advocate for both the sides vide No 291 to 295 dated 05-2-2010

Advocate for applicant
9/2/2010

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

Mention was made by Mrs.M.Das that though she argued for Respondents in O.A.169/2007, her name has not been shown in the order pronounced on 20.01.2010. Instead Mr.G.Baishya's name has been shown as counsel for Respondents. In order to satisfy ourselves as to whether there exists any mistake, we called for causelist for said date. On perusal of the cause list dated 03.12.2009, we notice that Mrs.M.Das indeed had appeared and argued the matter for Respondents. Thus, name of Mr.G.Baisya shown against the Respondents is an inadvertent mistake. Accordingly, Registry is directed to correct the said mistake, incorporating name of Mrs.M.Das, Sr.C.G.S.C. for Respondents.

Consequently, certified copies of the order be issued to parties.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 169 of 2007

Date of Decision: 20 .01.2010

Smti. Jharna Chakraborty

..... **Applicant/s**

Dr. J.L. Sarkar

..... **Advocate for the
Applicant/s**

- Versus -

U.O.I & Ors.

..... **Respondents**

Mr. G. Baishya, Sr. CGSC.

..... **Advocate for the
Respondents**

CORAM :

HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J)

HON'BLE SHRI MADAN KUMAR CHATURVEDI, MEMBER (A).

1. Whether reporters of local newspapers may be allowed to see the Judgment ? yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether their Lordships wish to see the fair copy Of the Judgment ? Yes/No

Judgment delivered by


Member (J) / Member (A)

**CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH :**

Original Application No.169 of 2007

Date of Decision: This the 20th day of January 2010.

HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

HON'BLE MR.MADAN KUMAR CHATURVEDI, MEMBER (A)

**Smti Jharna Chakraborty
Ex-Extra Departmental Branch
Post Master, Rajarbag
Aged about 50 years
W/O Shri Shankar Chandra Barman
P.O. Rajarbag, P.S.Radhakishor Par
Dist. Udaipur, South Tripura Pin 799120**

...Applicant

By Advocate: Dr.J.L.Sarkar

-Versus-

- 1. Union of India
Represented by Chief Postmaster General
N.E. Circle Shillong
793001**
- 2. Chief Postmaster General
N.E.Circle Shillong
793001**
- 3. The Director of Postal Service
Agartala, 799001**
- 4. Sri Tapas Kr. Nath
Ex SDI Posts R.K.Pur
Presently working as clerk at
Agartala H.P.O Agartala H.P.O.**

...Respondents

By Advocate: Mr. G. Baishya, Sr. Standing Counsel.

ORDER

MUKESH KR.GUPTA, MEMBER (J):

**Smti Jharna Chakaborty, in this Original Application filed
under Section 19 of the Administrative Tribunals Act 1985,**

challenges validity of penalty of removal inflicted vide order dated 1st May 2006 (Annexure-Q), as upheld by Appellate Authority's order dismissing her appeal vide order dated 6.12.2006 (Annexure-5). She seeks reinstatement in service with all consequential benefits such as back wages etc.

2. Admitted facts are that vide Memo dated 26.7.2000/31.7.2000 (Annexure-C) issued under Rule 8 of Postal and Telegraphs Extra Departmental Agents (Conduct and Services) Rules, 1964, it was alleged that while working as EDBPM in Rajarbag Branch EDBO in account with Udaipur Court S.O., South Tripura during the period from February 1998 to November 1998 she had failed to credit an amount of Rs.15,450/- to the Govt. account being the amount of monthly deposits made by 21 RD account holders of the office. She accepted subsequent deposits from various depositors of RD accounts holders, mentioned therein, without acknowledging the amount by making entry in the passbooks or granting receipt in counterfoil of deposit slip and did not credit the amount on the date of receipt or any subsequent date. Twenty two documents and one witness was listed in support of the aforesaid charge. Since vide communication dated 9th August 2000, said charge was denied, an oral enquiry was held. Ultimately the Inquiry Officer vide enquiry report dated 18th August 2002 concluded that the charges leveled have not been proved beyond doubt. Director Postal Services, Agartala vide order dated 15th April 2004 (Annexure-J) however, based on principle of preponderance of probability, inflicted the penalty of removal from service. Appeal dated 8th May 2004, was rejected on 26th August 2004 (Annexure-J) and thereafter, revision petition was preferred before Member (P) Postal Services Board, New Delhi. Vide

order dated 5th May 2005, holding that Applicant was denied reasonable opportunity of defence, as the disciplinary authority recorded his disagreement with enquiry Officer's report without giving her opportunity of defence, said penalty was set aside and the matter was remitted back to the disciplinary authority for de novo proceedings from the stage of forwarding the note of disagreement on the Inquiry officer's report to her. In purported compliance of said direction, disagreement note was communicated to him vide communication dated 22.6.2005, requiring her to submit her representation if any, within 15 days, which opportunity indeed was availed by her submitting detailed representation dated 08.07.2005 stating that SDI had threatened her with dire consequence, statement regarding admission of guilt was obtained under duress and threat. Since penalty imposed vide order dated 1st May 2006 inflicted by Director Postal Services Agartala had been set aside by the revisional authority, there was no justification to impose said penalty once again.

3. Dr.J.L.Sarkar, learned counsel appearing for the Applicant raised the following contentions:-

1. She was appointed in 1988 and discharged her function without any complaint. She had unblemished service records. On 1st December 1998, SDI P.Os., R.K. Pur (Respondent No.4) visited Rajarbag Branch Office (B.O.) and instructed her to prepare a list of RD accounts mentioning the amount of R.D. deposits with default fines to update the passbook. He also instructed her to go Udaipur S.O with Rs.20,000/-only to credit the amount in the Govt. account. Applicant collected Rs. 20,000/- and handed over said amount to SDI, Respondent No.4 on 4.12.1998 under duress. She was put off her duty vide memorandum dated 07.07.2000. Later impugned charge memo dated 31st July 2000 had been issued. Preliminary hearing was

held on 9.3.2001 and she denied the charge levelled against her. Prayer was also made for production of certain additional documents. SDI (Respondent No.4) R.K.Pur in his examination admitted that most of the written statements of depositors were not written by them. He had also admitted that he came to the conclusion of misappropriation on the basis of written statements of the depositors. Further more, said written statement of depositors were written by Shri Balen Chakraborty, S.W.III. Tapan Kr.Nath SW-1 also admitted that said written statements were recorded in writing on the instructions of Respondent No.4. The signature of the depositors were obtained on blank paper. Her statement dated 1st December 1988 was also obtained by Respondent No.4 under duress and threat.

2. No personal hearing was offered to her by the Disciplinary authority while passing the impugned penalty order dated 1st May 2006.

3. The very fact that Member (P) Postal Services Board admitted the irregularities committed by the disciplinary authority as well as Appellate authority while passing order dated 5th April 2004 and 26th August 2004, which penalty was set aside, she ought to have been exonerated completely. With passing of order dated 05.05.2005 by the Member (P), Postal Services Board, the statements recorded earlier not only loses its importance but stood erased, and therefore, the same could not have been used against her.

4. Respondent No.4 implicated her with a view to appoint some one close to him. Though alleged loss was Rs.15,450/-, Respondent No.4 forced her to part away Rs. 20,000/- without any justification.

5. Further contention raised was that her appeal has not been appreciated and taken into consideration while passing impugned orders.


6. Lastly it was contended that disagreement note supply to her vide communication dated 22nd June 2005, did not bear either the date or signature of the Disciplinary authority. There can be no reason as to why the disciplinary authority should not disclose the same while recording the disagreement note. As

such it appears that the same have been prepared subsequently. Further more the language employed in disagreement note conveyed to her on 22nd June 2005 is the same as mentioned in earlier penalty order dated 15th April 2004, namely; that her statement dated 01.12.1988 was "final nail in the coffin". Learned counsel further emphasized that as her signature was obtained on blank papers and further no specific question was asked on this aspect, there is no evidence to implicate her with the allegation contained vide impugned Memo. She has been made scapegoat by the Respondent No.4.

4. Reliance was placed on 1995 Vol 1 SLR 451 (P&H) Hon'ble High Court Jagdish Kumar v. The State of Punjab and ors. to contend that it was mandatory to provide personnel hearing before imposing punishment. It was further canvassed that no one can be punished for a charge which is not made subject matter of enquiry. Burden to prove the charges in a domestic enquiry always lies on the employer unless the delinquent admits the charge. Reliance was placed on AIR 1998 SC 2713 Punjab National Bank and ors. v. Kunj Behari Misra to emphasize that where the disciplinary authority differs with the findings of the enquiry officer, rendered in favour of the delinquent, and proposes to come to a different conclusion, prior opportunity of hearing before taking a final view into the matter must be afforded. Further reliance was placed on AIR 1993 SC 2592 Smt. Naseem Bano v. State of U. P & Ors. wherein it was observed that where averments have not been controverted by the respondents,, the Court should proceed on basis that such averments have been admitted by the respondents. Reliance was also placed on 1992 (2) SLR 74 (SC) Union of India v. Basant Lal wherein similar view had been taken. Lastly reliance was placed on 2000 Vol.1 SLJ (SC) 208 Yoginath D. Bagde v. State of Maharashtra & Anr. to


contend right to be heard is available to delinquent official up to the last stage in the disciplinary proceeding.

5. In above backdrop, Dr. J.L. Sarkar, learned counsel for applicant forcefully contends that he is entitled to relief, as prayed for. By filing reply the respondents contested the claim stating applicant was in habit not to credit the deposits made by public in Government amount in time. SDIPOs, R.K. Pur collected some passbooks from the public and tallied the balance recorded in the account office of Rajarbag B.O. Udaipur Court S.O. and found discrepancy in some cases, and therefore the matter had been reported to the Divisional Head i.e Director Postal Services, Agartala. Thereafter he (i.e SDIPOs, R.K. Pur) was then instructed by the Divisional Authority to conduct a thorough enquiry. During course of such enquiry it was revealed that in many cases the amount as appeared in the passbook of the depositors differ with balance shown in office record. Ultimately the difference of Rs. 15,450/- had been detected in 21 numbers of RD Accounts and applicant was required to deposit a sum of Rs. 20,000/- being the defrauded amount including accrued and penal interest. Since then it had been prima facie allegation of misappropriation of credit money, the disciplinary enquiry had been initiated under Rule 8 of P & T ED Agents (Conduct and Service) Rules, 1964, as now stand revised to Rule 10 of GDS (Conduct and Employment) Rules 2001. No document/statement was obtained by Respondent No. 4 (Sri Tapas Kr. Nath, Ex SDI Posts R.K. Pur) using force, duress towards the depositors, as alleged. The depositors used, who were victims, used to deposit money directly to the BPM and their passbooks used to be retained by the BPM & never demanded any counterfoil of the amount deposited and BPM did not



credit the amount in the Government account nor did she enter the transaction in the passbooks lying with her on the date of transaction. The members of the public had submitted their statement against the applicant voluntarily. Vide reply para 11 it was stated that she was told that: "if she does not credit the defrauded amount along with interest voluntarily in the Govt. account, the matter would be reported to the police. Thereafter the amount of Rs. 20,000/- was credited into the Govt. account."

6. Learned counsel for the Respondents drew our attention to the orders passed by concerned authorities, on the earlier occasion, to point out that it was in specifically recorded therein that the statement of the applicant dated 01.12.1998 "is the final nail in the coffin as far as establishing temporary misappropriation of Govt. funds is concerned." Learned counsel for the Respondents also justified that there had been good and sufficient reasons to differ with the findings of the enquiry officer and this precisely had been done while passing order dated 15th April, 2004 by disciplinary authority but as observed by the revisional authority, vide order dated 05.05.2005, she had not been afforded a reasonable opportunity in the manner before disagreement with the findings of the Inquiry Officer and it is only for this reason, the punishment was set aside and case was remitted "back to the disciplinary authority for de-novo proceedings from the stage of forwarding the note of disagreement on the Inquiry Officer's report, to the petitioner." Said directions had been comply with & she was conveyed said note of disagreement vide communication dated 22nd June, 2005.



19

7. Learned counsel also drew our attention to said note of disagreement as well as the order passed by disciplinary authority on earlier occasion's i.e. 15.04.2004 to establish that said note of disagreement was verbally reproduced in verbatim. It was further emphasized that her plea of duress had been examined, which was made afterwards only to seek exists out of her own creation. She was afforded ample opportunity to place her defence on record, cross-examined the witnesses at length as well as made representations. There is no rule or law to the effect personal hearing must be afforded besides affording an opportunity to submit a representation. Her statutory appeal was duly considered by the appellate authority, who did not find any justification to disagree with the findings recorded by disciplinary authority. Rather the appellate order would reveal that said authority observed that: "Officials working in the post office are custodians of public money. They cannot misappropriate public money and destroy the trust and faith of the public in the post office and thus ruin the post office name and reputation. The petitioner had initially admitted her dereliction of duty and subsequently realizing the seriousness of the matter withdrew her initial admission. The punishment awarded therefore needs no revision and hence the appeal is rejected."

8. In this background, learned counsel for respondents vehemently contended that applicant do not deserve any sympathy from this Tribunal. Reliance was placed on (2008) 8 SCC 92 State Bank of India and ors. v. S.N. Goyal holding that temporary misappropriation of customer's money by Bank Manager is a serious misconduct warranting removal from service. If the matter is viewed

20

lightly or leniently it will encourage other employees to indulge in such activities thereby undermining entire banking system. Reliance was also placed on AIR 1981 SC 818 Swadeshi Cotton Mills v. Union of India holding that person affected must have reasonable opportunity of being heard and the hearing must be a genuine and not an empty public relation exercise. It was emphasized that afore-noted ratio of said judgment had been scrupulously followed. Lastly reliance was placed on 2005 SCC (L&S) 567 Damoh Panna Sagar Rural Regional Bank & another v. Munnalal Jain wherein it was held that unauthorized withdrawal of money from Bank by Bank Manager even if money subsequently deposited with interest in the Bank, constituted misconduct. Hon'ble Court reiterated its earlier decision in Disciplinary Authority-cum Regional Manager v. Nikunja Bihari Patnaik, (1996) 9 SCC 69 that there is no defence available to say that there was no loss or profit resulting in case, when the officer/employee acted without authority. Acting beyond one's authority is by itself a breach of discipline and is a misconduct.

9. In the above backdrop, learned counsel further emphasized that keeping in view the limited scope of judicial review in disciplinary matters, there is no justification to interfere. We have heard learned counsel learned counsel for parties, perused the pleadings and other materials placed on record. We have also bestowed our thoughtful consideration to rival contentions raised by the parties and given anxious consideration to various judgments relied upon, as noticed herein above.

10. The legal question which arises for consideration is whether the respondents were justified in relying upon applicant's

statement dated 01.12.1998 and further whether the disciplinary authority was justified to disagree with the findings of the inquiry officer.

11. At the outset, we may note that since the charge leveled against the applicant had been denied, full fledged enquiry had been undertaken. Her written statement dated 01.12.1998 was one of the listed document. It is not in dispute that she participated in the departmental enquiry throughout, cross-examined various witnesses examined at length and submitted her defence statement. As on earlier occasion, without assigning reasons for disagreement with the conclusions arrived at by the inquiry officer, penalty was imposed by the disciplinary authority as upheld by the appellate authority, in our considered view revisional authority was fully justified to interdict said findings and remanding the matter from the stage of supplying the said note of disagreement with findings of enquiry officer to the disciplinary authority. She indeed was made available said note of disagreement, requiring her to submit representation, if any, within the time prescribed therein, which opportunity had also been availed by her. In such circumstances, it cannot but be held that the applicant had been afforded a reasonable opportunity of hearing by disciplinary authority before leaving the penalty. Thus only question which remains to be examined is whether applicant's pleas raised in her defence, heavily raised in her representation, appeal etc. had been duly considered or not.

12. Perusal of the disciplinary authority order dated 01.05.2006 as well as appellate order dated 06.12.2006 would reveal that applicant's various contentions were duly noticed and considered

in their perspective. Contentions raised by applicant that her authorities were not justified to take in to account, her statement dated 01.12.1998 to arrive at the conclusion of temporary misappropriation of Govt. funds were not justified, is totally baseless, misconceive and without any justification. The impact of said statement particularly in the light of cross-examination of the witnesses has been duly noticed & rightly made the basis for establishing charge against her. We may also note the fact that depositors had made statement before the enquiry officer and they were duly cross-examined, which aspect cannot be easily ignored or brush aside. Merely because some of them stated that signatures were taken on blank paper, would be of no consequences. As long as the fact the applicant had failed to make entry in to their passbooks and did not credited the said amount, remain undisputed, the applicant's various technical plea would be not of any relevance. Charges leveled against her have been established by sufficient evidence brought on record.

13. The scope of judicial review in disciplinary proceeding has been crystallized. As observed by Hon'ble Supreme Court in B.C. Chaturvedi -Versus- U.O.I. & Ors. , JT 1995 (8) SC 45, the Courts/Tribunal have limited scope in judicial review of disciplinary proceedings. The relevant observation reads thus:

"Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold

inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappraise the evidence and to arrive at its own independent findings on the evidence."

(emphasized supplied)

14. In our considered view, there had been sufficient evidence on record to record finding of applicant as guilty. The test in the disciplinary enquiry is preponderance of probability and not the strict proof of evidence. In the circumstances, none of the judgments cited by her, in our considered view helps her advance the plea raised. Bare perusal of disagreement note reveals that there had been good and sufficient reasons for disagreement with the findings of enquiry officer. Her contentions are that the said disagreement did not bear either is different or signature of disciplinary authority is totally misplaced & baseless. The letter dated 22nd June, 2005 by which said discriminatory note was made available to her virtually finds recorded in the earlier order passed by the disciplinary authority and therefore the contention raised that it was recorded subsequently is misconceived. At the cost of repetition we may observe that said disagreement note was duly reflected virtually in verbatim in earlier disciplinary authority order dated 15.04.2004. The ratio laid down in Munna Lal as well as S.N. Goel (Supra), that even temporarily misappropriation of customer's money is a serious misconduct, is squarely applicable in the facts & circumstance of present case. Merely said judgments were related to Banking activities would be insignificant & rather it would squarely applicable to Postal Deptt.

where public money is deposited. As such the appellate authority has rightly observed that officials working in the post office are custodians of public money. They cannot misappropriate public money and destroy the trust and faith of the public in the post office and thus ruin the post office name and reputation. There is no justification in any of the contentions raised by the applicant. We do not find any scope for interference in the present proceedings.

15. In view of discussion made herein above & finding no merits, O.A. is dismissed. No costs.



(MADAN KUMAR CHATURVEDI)
Member (A)



(MUKESH KUMAR GUPTA)
Member (J)

/PB/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI

O.A. No. 169 /2007

Smt Jharna Chakraborty

VS

U.O.I & ORS

Synopsis

The applicant was Extra Departmental Branch Post Master (EDBPM) in Rajarbag Branch Post Office in South Tripura. She was put off her duty w.e.f. 7/7/2002 and memorandum of charges dated 26/7/2000 was served on her alleging that she had failed to credit an amount of 15,420 only to the govt. account collected from 21 recurring deposit holders during Feb. 1998 to Nov 1998. The applicant denied the charges. Shri P.K. Chakrabarty Asstt. Supdt. of P.Os., Agartala was appointed I.O. Applicant also engaged Shri C.R. Bhowmick as her defence counsel. The IO recorded the finding that the charges levelled against the applicant have not been proved beyond doubt. The Disciplinary Authority disagreed with the findings of the I.O. and imposed penalty of "removal from employment" without giving any hearing to the applicant on the reasons for disagreement. The copy of the Inquiry Report was also not given. The appellate authority also upheld the penalty. The applicant filed revision petition and the member personal set aside the punishment and remitted back for denovo Inquiry by order dated 1/5/2006. The DPS imposed penalty of removal from service, no hearing was given applicant submitted appeal PMG, NE circle which was rejected without application of mind by order dated 6/12/06. The D.A. took upon himself the matter of Disciplinary Proceeding rejecting the IO's finding but no hearing was given and the decision was ex-parte. The order dated 6/12/06 is vague and abstract and the applicant was given no scope to place the argument against the reasons of disagreement against I.O., if any. The CPMG in fact passed a cryptic and factually non speaking order giving no credence to the finding of the duly appointed I.O. In the fact and circumstances of the case the order of penalty deserve to be set aside.

Filed by the applicant
Through S.N. Tamuli
Advocate.

26

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI**

O.A. NO. 169 2007

Smti Jharna Chakraborty

-VS-

U.O.I & ORS.

INDEX

<u>Contents</u>	<u>Page No.</u>
(I) Original Application	1
(II) Verification	12
(III) Annexure - A	13
(IV) Annexure - B	14
(V) Annexure - C	15
(VI) Annexure - D	19
(VII) Annexure - E	20
(VIII) Annexure - F	29
(IX) Annexure - H	39
(X) Annexure - I	42
(XI) Annexure - J	50
(XII) Annexure - K	55
(XIII) Annexure - L	57
(XIV) Annexure - M	59
(XV) Annexure - N	62
(XVI) Annexure - O	64
(XVII) Annexure - P	67
(XVIII) Annexure - Q	71
(XIX) Annexure - R	76
(XX) Annexure - S	81 to 83
(XXI) W/S	84 to 91

29

*Filed by the applicant
through S.N. Tumbi
Advocate*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No. 169...../2007

Smt Jharna Chakraborty
Ex Extra Departmental Branch
Post Master, Rajarbag
Aged about 50 years
W/O Shri Shankar Chandra Barman
P.O. Rajarbag
P.S. Radhakishor Par
Dist: Udaipur, South Tripura
Pin: 799120

.....Applicant

-Versus-

(i) Union of India

Represented by Chief Postmaster General
N.E. Circle Shillong
793001

(ii) Chief Postmaster General
N.E. Circle Shillong
793001

(iii) The Director of Postal Service
Agartala, 799001.

→ (iv) Sri Tapas Kr. Nath
Ex SDI Posts R.K. Pur
Presently working as clerk at
Agartala H.P.O. Agartala H.P.O

.....Respondents.

DETAILS OF THE APPLICATION:

(1) PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

This application is made against the order dated 1/5/2006 as, No F 14/iv/98-99/ptl issued by the Director of Postal Services, Agartala and appellate order dated 6/12/2006 issued by the Chief Post Master General, N.E. Circle, Shillong (Memo No. Staff/109-13/2006).

2. JURISDICTION:

Applicant declare that the subject matter of the application is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION:

The applicant declare that the application is within the period of limitation under Section 21 of the Administrative Tribunal Act- 1985.

4. FACTS OF THE CASE:

4.1 That the applicant is a citizen of India and as such are entitled to the rights and privileges guaranteed by the Constitution of India.

4.2 That applicant was appointed as Extra Departmental Branch Postmaster (EDBPM in short) in Rajarbag Branch Post Office in the district of Udaipur in South Tripura in the year 1988. Since then applicant was discharging her duty without any stigma and was having an unblemished service record.

✓ 4.3 That on 30/11/1998 applicant received a verbal message from Sub Divisional Inspector (SDI), Sri Tapas Kumar Nath, R.K. Pur through the EDAA/EDMC to collect all the passbooks in which deposits were made by giving default fines. Applicant accordingly collected all the passbooks where deposits were made by giving default fines. On 01/12/1998, SDI POs, R.K. Pur visited Rajarbag Branch Office (B.O) and instructed the applicant to prepare a list RD accounts mentioning the amount of R.D. deposits with default fines to to update the passbooks. SDI also instructed the applicant to go to Udaipur Court S.O with Rs. 20,000 (Twenty

Pharna Chakrabarty

Thousand) only to credit the amount in the Govt. account. Applicant collected Rs. 20,000 (Twenty Thousand) only and handed over the amount to the SDI Shri Tapas Kr. Nath on 4/12/1998 under duress. It may be mentioned here that applicant collected the amount due up to the date from the creditors and along with his own money and deposited the same to the SDI R.K. Pur i.e. Shri Tapas Kumar Nath. as mentioned above which was later on credited to the govt. account. In the meantime SDIP seized all the 23 passbooks where deposits were made by giving huge amount of default fines.

- 4.4 That on 7/7/2000 applicant was put off her duty vide memo no A2/Rajabag which was later on ratified by the Director of Postal Service w.ef. 7/7/02 (A/N), pending an allegation of misconduct against her.

Copies of the order dated 7/7/02 12/7/2002 are enclosed as Annexure A and B respectively.

- 4.5 That on vide memo No. FI-4/IV/98-99/Pt-I dated 26/7/2000 applicant was served with a memorandum of charges where it was proposed to hold an inquiry against the applicant under Rule 8 of Postal and Telegraphs Extra Departmental Agents (conduct and Service) Ruler 1984 for imputation of charges of misconduct and misbehaviour. The Article of charges enclosed as Annexure I states that applicant had failed to credit an amount of Rs. 15,450/ (Rupees fifteen thousand four hundred fifty only) to the govt account being the amount of monthly deposit made by 21 RD account holder during the period of Feb/1998 to November 1998. Memorandum of charges also contained a list of documents by which charges are to be proved and directed the applicant to submit her defence statements within 10 days from the date of the receipt of the memorandum of charges dated 26/7/2000

A copy of the memorandum of charges is enclosed as Annexure C.

- 4.6 That on receipt of the memorandum of charges applicant submitted her defence to the disciplinary authority denying the charges levelled against her. Applicant in his written statement prayed for hearing in person.

A copy of the letter dated 9/8/2000 is enclosed as Annexure D.

Sharna Chakraborty

Sharnaka Krobaf

- 4.7 That vide memo No. F- 4/IV/98-99/Pt-I dated 15/2/2001 Shri P.K. Chakraborty Asst.. Supdt. of Post Offices, Agartala (s) Subdivision was appointed as the Inquiry Officer (IO in short) to inquire in to the charges levelled against the applicant. Applicant also appointed Sri Chitta Ranjan Bhoumich Ex-O/S mail Santi bazar as her defence counsel.
- 4.8 That preliminary hearing was held on 9/3/2001 where applicant denied all the charges levelled against her. Applicant also prayed for production of certain additional documents for her defence. Next regular hearing were held on 26/4/2001, 3/7/2001 and 7/8/01 etc. During Inquiry on 7/8/01 on cross examination SW-1 Shri Tapas Kr. Nath, then SDI, R.K. Pur admitted that most of the written statements were not written by the depositors and also admitted that he came to the conclusion of misappropriation on the basis of the written statement of the depositors and their statements. It may again be mentioned here that the written statements were written by some other persons other than the depositors written by i.e. Shri Balen Chakraborty SW-3 and Sri Manindra Chakraborty SW at the instruction of then SDI, R.K. Pur Shri Tapas Kumar Nath. SW-1 also stated that all the written statements were read out to the depositors and being satisfied they put their signature. But on cross examination of Sri Balen Chakraborty on 23/8/2001 i.e the next date of hearing SW-I stated that all the written statements were not read out and some were (ExS-06 to Ex. S 5-22) Written after obtaining the signatures of the depositors on blank papers. This reveals the malafide intention of the SDI, R.K. Pur Shri Tapas Kr. Nath. More over SDI, R.K Pur Shri Tapas Kr. Nath took it in writing from the applicant that "statements were true" on each written statement of the depositor forcefully/under threat.

Copies of the inquiry proceeding dated 7/8/ 2001 and 23/8/2001 are enclosed as Annexure E and F Respectively.

- 4.9 That again on 5/9/01 regular hearing was held where applicant submitted her defence verbally. On her defence applicant submitted that applicant was verbally instructed to collect all the passbooks where deposits were made by default fines on 30/11/98 Applicant accordingly collected the same on 1/12/98. On 1/12/98 and 2/12/98 then SDI, R.K. Pur, Shri Tapas Kr. Nath along with OP. Mails visited the Branch Post

Office and instructed the applicant to prepare a list of the passbooks where deposits were made by default fines. Applicant accordingly prepared a list of the accounts which was later on exhibited as Ex S-I. Applicant was also instructed to go to Udaipur with Rs. 20,000 (Twenty thousand) only for crediting the amount. Applicant handed over the amount to the SDI (after collecting the amount from the depositors on 2/12/98 and 3/12/98 on 4/12/98. Applicant also denies that depositors had deposited the amount earlier. Applicant also submitted that her written statement and her statement that "facts are true" on the written statements of the depositors were obtained by the SDI stating that such statement were to be written to keep her service. Applicant did it accordingly on the threat that otherwise she would lose her job. Applicant also state that SDI also misled the depositors by stating that their deposits were misappropriated by the applicant as she did not deposit the amount collected from the depositors on govt. account and made no entry in the concerned pass books and R.D. Journals. Applicant also denied that all the R.D. pass books were kept in her custody. In fact those were collected as per the instruction of then SDI R.K. Pur on 30/12/98. Applicant gave Rs. 20,000/- to then SDI, R.K. Pur and have not deposited the amount by herself. It is only the SDI who had deposited the amount in Govt. account.

A copy of the defence of the applicant i.e CO is enclosed as Annexure G.

- 4.10 That applicant submitted her final defence statement/written brief denying the charges levelled against her. Applicant in her written brief clearly stated that the written statement of the applicant dated 1/12/1998 i.e. the date on which SDI, R.K. Pur, Shri Tapas Kr. Nath visited the Branch P.O. where applicants was working and was shown as document by which charges was proposed to be sustained (SI. NO. 1) was obtained by the then SDI, Shri Tapas Kr. Nath (SWI) by using force, duress and threatening. Applicant also mentioned in her written statement that depositors could not produce any pay-in-slip to show that deposits were accepted by the applicant. Applicant also mentioned that written statement of the depositors were not made by the depositors as some were written by Shri Manindra Chakraborty. (O/S Mail) as per the instruction of Shri Tapas Kr. Nath, SDI, R.K. Pur. It was also stated that some written statement of the depositors were written after taking signature of blank papers.

Sharna Chakraborty

Applicant in her written statement also mentioned that Dy Suptd. P.Os' Agartala Sri Sunil Das during his inspection on 17/10/98 for the year 1998 i.e. the period in which irregularity was alleged to be committed by the applicant and on subsequent inspection in the year 1993 no irregularities was detected. Applicant also submitted that SDI, R.K. Pur, Sri Tapas Kr. Nath brought false allegations against the applicant with malafide intention so that he could accommodate Sri Balen Chakraborty Extra Departmental Delivery Agent (EDDA) and Extra Departmental Mail Carrier (EDMC) in place of the applicant.

A copy of the written brief i.e. final defence is enclosed as Annexure-H.

- 4.11 That on 13/8/2002 Inquiry Officer submitted his Inquiry Report to the disciplinary authority. In the Inquiry Report Inquiry officer while evaluating the evidences stated that there was no entry in the BO account books, no counter file SB- 103, Branch Office Recurring Deposit Journal (BORD Journal) no entry in the BO account books to prove that the depositors had made deposits. Moreover no specific dates were mentioned either by the prosecution side or by the depositor and about deposits made by them. Moreover the amount alleged to be misappropriated by the applicant i.e. co. was shown differently in charge sheet and the EXS-01 and concluded that the basic document produced by the prosecution is not the in to supportive to the charges. Moreover it could not be established in the inquiry that the RD passbooks listed in the charge sheet were actually in the custody of the BPM and not in the custody of the depositors and also concluded that written statement of the depositors are not dependable Inquiry officer in his findings recorded that

"On the basis of the documentary and oral evidence adduced in the case before me and in view of the reasons given above, I hold that the charges levelled against Smt Jharna Chakraborty GDS BPM (Now under put off duty) Rajarbag B.O have not been proved beyond doubt".

A copy of the Inquiry Report is enclosed as Annexure I.

- 4.12 That disciplinary authority after going through the Inquiry Report have shown his disagreement with the IO report and came to the conclusion that charges levelled

Jharna Chakraborty

against Smt Jharna Chakraborty, i.e.. the applicant in the present OA. has been proved. While coming in to the conclusion disciplinary authority ignored the fact that the written statement of the depositors were written by SW-3 and Shri Manik Chakraborty and some were written after taking signature on blank papers as per the instruction of then SDI, R.K. Pur Shri Tapas Kr. Nath, Disciplinary authority also ignored the fact that there was a difference in alleged misappropriated money and amount mentioned in the charge sheet. Disciplinary authority also give own weighted to the statement of the depositor without considering the fact that those were written by some other person as per the instruction of Shri Tapas Kr. Nath then SDI, R.K. Pur who was working with the malafide intention only to deprive the applicant from his post. Moreover disciplinary Authority ignored the fact that the written statement of the CO (i.e. is the present applicant) was obtained by the SDI under the threat that if she do not write like that she may lose her job. Moreover amount deposited by the CO (i.e. the present applicant) to then SDI, R.K. Pur which was later on deposited to the Govt. Account by the SDI was collected from the depositors on 2/1/01 and 3/01/01 to update their passbooks as per the instruction and threat of then SDI, R.K. Pur. Disciplinary authority also neglected the fact that it is not proved that deposits were made regularly by the depositors as they could not produce any record counterfile etc. to that effect and imposed the penalty of removal from employment with immediate effect" on the applicant. It may be mentioned here that disciplinary authority before imposing punishment did not follow the procedure as laid down in rule 15(1-A) (1-B) of CCS (CCA) rules 1965. i.e.. copy of the inquiry report was not given to the applicant i.e CO. hence denied her the opportunity to submit her final defence on the basis of the Inquiry Report.

A copy of the disciplinary authorities report dated 15/4/2004 is enclosed as Annexure J.

- 4.13 That the applicant than preferred an appeal to the Chief Postmaster General, NE Circle, Shillong i.e the appellate authority stating his grievances specially stating the fact that no inquiry report, disciplinary authorities reasons for disagreement with the I O's report were not communicated to the applicant before imposing the major penalty of removal from service. Appellate authority disposed the appeal without any application of mind while disposing the appeal Appellate Authority did not

Jharna Chakraborty

considered the facts and grievances of the applicant and worked with a closed mind and tried to fortify the procedural and factual irregularities of the disciplinary authority and up held the punishment order of the disciplinary authority dated 15/4/04

Copies of the appeal of the applicant and order of the appellate authority are enclosed as Annexures K and L respectively.

- 4.14 That applicant then filed a revision petition before the member (personal), postal service Board expressing the irregularities conducted by the Disciplinary Authority and the appellate authority. Vide letter dated 5/5/2005. Issued from the Ministry of Communication & IT, Department of Post New Delhi, Then Member (personal) exercising the power conferred upon him under rule 19 of the Department of Posts Gramin Dak Sevak (Conduct & Employment) Rules 2001, set aside the punishment imposed on the applicant and remitted back the case to the disciplinary authority for de-novo proceeding from the stage of forwarding the note of disagreement on the Inquiry Officer's report to the petitioner.

Copies of the revision petition dated 12/10/04 and order dated 5/5/05 are enclosed as Annexure M & N respectively.

- 4.15 That in pursuance with the order dated 9/5/05 of the Member (p), Dak Bhawan, New Delhi, Directorate of Postal Services, Tripura State vide letter dated 22/6/05 provided the applicant with the copy of the I.O's report and note of disagreement of the disciplinary authority to the applicant and asked her to submit her statement of defence within 15 days.

A copy of the letter dated 22/6/05 is enclosed as Annexure O.

- 4.16 That vide letter dated 8/7/05 applicant submitted her defence statement to the Director of Postal Services. In her defence applicant i.e. C.O. mentioned that no such specific question whether depositors had deposited their money regularly was asked in the proceedings by the prosecution and it was confirmed that the signatures of the depositor were obtained on blank papers and were not aware of

Sharna Chakraborty

the statements written there and also stated that the written statement of the applicant was forced statement. Moreover it was proved that the pass books were not in custody of the applicant as stated by the prosecution side in the charge sheet. Moreover then SDI, R.K. Pur threatened the CO i.e. the applicant with dire consequences to deposit the amount i.e Rs. 20,000 (Twenty thousand) only and accordingly applicant deposited the amount under threat and request the authority to look in to the matter unbiasedly.

A copy of the final defence statement dated 8/7/05 is enclosed as Annexure P.

- 4.17. That vide order dated 1/5/2006 Director of Postal Services imposed the penalty of removal from employment with immediate effect. It may be mentioned here that disciplinary authority in this case worked with a closed mind and was more interested in up holding the earlier order of the Disciplinary Authority rather than looking in to the matter with unbiased attitude while imposing the punishment disciplinary authority worked in a manner as if the de-novo inquiry as directed by the Member (p) was conducted only to make up the mandatory procedural formalities neglected by the earlier authority and took a bias and predetermined view to uphold the earlier order.

A copy of the order dated 1/5/06 is enclosed as Annexure-Q.

- 4.18 That applicant than preferred an appeal before the Post Master General, N.E. Circle, Shillong against the order dated 1/5/06 of the disciplinary authority stating the grounds of appeal and same was disposed vide order dated 6/12/05 rejected the appeal of the applicant without any application of mind and without considering the other facts.

Copies of the appeal dated 16/6/06 and order dated 6/12/06 are enclosed as Annexure R and S respectively.

- 4.19 That the "note of disagreement" of the Disciplinary Authority was sent to the applicant later on from which it is seen that the Disciplinary Authority overruled the finding of the IO. By the D.A. took upon himself the matter of disciplinary proceedings sidelining the I.O. No

Pharna Chak Rabay

hearing was given to the applicant giving scope to explain her case. The setting aside of the finding of the I.O. was arbitrary and ex-parte. This caused prejudice to the case of the applicant. Prejudice in law is patent in such action. The disagreement note is as such is perverse and void ab initio.

4.20 That the order dated 6/12/2006 passed by the Chief Postmaster General, N.E. Circle is an outcome of the said officer with non application of mind. The said respondent has passed the order dated 6/12/2006 in a vague and abstract manner. He has only observed that the Disciplinary Authority while disagreeing with the IO has given sound and well argued reasons. He could not record his finding that the argued reasons have been accepted by him. He has done so patently for the reason that there was no scope either by the IO or the adversely affected person i.e. the applicant to give counter arguments or counter reasons on the arguments of the disagreeing Disciplinary Authority as is necessary under procedure established by law. The CPMG has stated the theoretical aspects only i.e. officials working in the post office on custodian of public money. They cannot misappropriate public money and destroy the trust and faith of public in the Post Office and thus ruin the Post Office name and reputation. The applicant states that this is true but most unfortunately the CPMG could not come to and record any reasonable conclusion that the applicant has committed any offence in this respect. Applicant states that she has not done anything unbecoming of the trust and faith reposed on her. The order of rejection of the appeal is therefore liable to be set aside and quashed. In the humble submission of the applicant in the circumstances of the case she deserve a personal hearing under process of law where the CPMG passed a cryptic and factually nonspeaking order and in fact giving no credence to the finding of duly appointed IO under the rules such an order is against rules and principles of law.

4.21 That this applications is filed bonafide and in the interest of justice.

5. GROUNDS WITH LEGAL PROVISIONS:

5.1 For that disciplinary authority worked with a closed mind and did not considered the facts as mentioned by the IO.

5.2 For that disciplinary authority while coming to the conclusion that charges against the applicant were proved on the basis of the written statement of the depositors ignored the fact that depositors were not aware of the statement as it was written later after obtaining their signature on blank papers.

38
Sharna Chakrabarty

5.3 For that the written statement of the applicant was a forced statement and was obtained under duress and treat.

5.4 For that fact that the SDI worked with a ill motive was ignored.

5.4 For that prosecution could not prove that the depositors made their deposits regularly and also that the pass books were in custody of the BPM as alleged was not proved.

5.5 For that while conducting the de-nove inquiry disciplinary authority worked with closed mind and tried to up held its earlier decision rather than working with an unbiased attitude.

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

There is no remedy under any rule and this Hon'ble Tribunal is the only forum for redressal of the grievances.

7. **MATTERS NOT PREVIOUSLY PENDING BEFORE ANY OTHER COURT:**

The applicant declare that she has not file any original application/petition before any Tribunal or Court.

8. **RELIEF (S) SOUGHT FOR:**

Under the facts and circumstances mentioned above applicant pray for the following reliefs.

8.1 That the order dated 1/5/06 imposing the penalty of removal from service with immediate effect imposed on the applicant be set aside and quashed.

8.2 That the order dated 6/12/06 be set aside and quashed.

8.3 That the applicant be reinstate in service with back wages and all other allied benefits.

8.4 That any other relief/reliefs that the Hon'ble Tribunal deem fit and proper.

That above reliefs are sought on the grounds stated above.

9. This application has been filed through an Advocate.

10. **PARTICULARS OF THE POSTAL ORDER**

(i) IPONO : 34 6 653757

(ii) Date of Issue: 10/6/07

(iii) Issued from: GPO, Guwahati

(iv) Payable at: GPO, Guwahati

11. Enclosers: As stated in the Index

Sharna Chakraborty

VERIFICATION

I Smt Jharna Chakraborty, aged about 50 years, wife of Shri Shankar Chandra Barman, Ex EDBPO, Rajarbag a resident of Rajarbag, P.O. Rajarbag, R.K. Pur do hereby verify that the statements made in para 1,4,6 to 11 are true to my knowledge and those made in para 2, 3 and 5 are true to my knowledge as per the legal advice and I have not suppressed any material facts.

AND I sign this verification on this 14th day of May 2007 at Guwahati.

Jharna Chakraborty

Memo. No. A2/Rajabag.

dd. Rajpur 7.7.00

Whereas an enquiry into an allegation of misconduct is pending against Smt. Jhana Chakraborty, E.D.P.M. Rajabag E.D.O.

Now, therefore, the undersigned in exercise of the power conferred by Rule 9(V) of the P&T Extra Deptl. Agents (Conduct & Service) Rules 1964, hereby puts the said Smt. Jhana Chakraborty, E.D.P.M. Rajabag E.D.O. off duty w.e.f. 7.7.00 (A/N)

Sd/-

Subd.
Kshir

Copy to.

- 2) The D/S/AGT.
- 3) - for kind approval.
- 4) The Am/ Rajpur Ho.
- 5) The S Am/ Udaipur Courts.
- 5) Smt. Jhana Chakraborty
E.D.P.M./ Rajabag
(own put off)

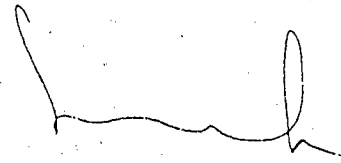
Attested
Smt.
H.N.

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
TRIPURA STATE: AGARTALA

Memo No. F₁-4/IV/98-99/Pt-I

Dated at Agartala, the 12.07.2000

Putting off Smt Jharna Chakraborty, EDBPM, Rajarbag EDBO in account with Udaipur Court S.O. off duty w.e.f. 07.07.2000 (A/N), Pending inquiry into an allegation of misconduct against her, by the SDIPOs, R.K.Pur under Rule 9(1) of P&T EDA (C&S) Rules, 1964 vide the SDIPOs Memo No.A₂/Rajarbag dt.07.07.2000 is hereby ratified in exercise of power conferred up on me under Rule 9(2) of P&T Extra Departmental Agents (C&S) Rules 1964.



(SANJAY SHARAN)
Director of Postal Services
Agartala - 799001.

Copy to:

1. The SDIPOs, R.K.Pur.
2. Smt Jharna Chakraborty, EDBPM, Rajarbag (Now put-off), Udaipur.
3. The Postmaster, R.K.Pur H.O.
4. Est. Br. of Divisional Office.
5. Vigilance file.
6. o/c.

Copy :- 3

Director Postal Services
Agartala Division, Agartala-799001.

Attended
Smt
(Adv.)

Memo No. FI-4/IV/98-99/Pt-I

Dated at Agartala the 26.7.2000

31.7.2000

M E M O R A N D U M

The undersigned proposes to hold an Inquiry against Shri/Smt. Jhanna Chakraborty, EDBPM, Rajbari (in a/c with Udaipur Court S.O. under R.V. Pur H.O.) under Rule 8 of Posts and Telegraphs Extra Departmental Agents (Conduct and Service) Rules, 1964. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statements of articles of charge (ANNEXURE-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (ANNEXURE-II). A list of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (ANNEXURE-III & IV).

2. Shri/Smt. Jhanna Chakraborty, EDBPM, Rajbari is directed to submit within 10 days of the receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.

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

4. Shri/Smt. Jhanna Chakraborty, EDBPM, Rajbari is further informed that if he/she does not submit his/her written statement of defence on or before the date specified in para 2 above or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 8 of Posts and Telegraphs Extra Departmental Agents (Conduct and Service) Rules, 1964 or the orders/directions issued in pursuance of the said Rules, the inquiring authority may hold the inquiry against him ex parte.

5. Attention of Shri/Smt. Jhanna Chakraborty, EDBPM, Rajbari is invited to rule 8 of posts and Telegraphs Extra Departmental Agents (Conduct and Service) Rules, 1964 under which no employee shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri/Smt. Jhanna Chakraborty, EDBPM, Rajbari is aware of such representation and that it has made at his instance and action will be taken against him for violation of Rule 8 of Posts and Telegraphs Extra Departmental Agents (Conduct and Service) Rules, 1964.

6. The receipt of this Memorandum may be acknowledged.

BY RECD/AD.

To.

Shri/Smt. Jhanna Chakraborty;
EDBPM, (now under Pst-cbg duty);
Rajbari via - Udaipur Court S.O.
Copy

Sanyal Jh
Director, Postal Services
Tripura State, Agartala-799001.

Director, Postal Services
Agartala Division, Agartala-799001.

Attended
G. K. Sanyal
Advocate

ANNEXURE - I

Statement of article of charges framed against Smti Jharna Chakraborty, EDBPM, Rajarbag EDBO in account with Udaipur Court SO under Radhakishorepur I.I.O.

ARTICLE

The said Smti Jharna Chakraborty, EDBPM, Rajarbag EDBO in account with Udaipur Court SO under R.K. Pur HO while working as such during the period from Feb'98 to Nov'98 has failed to credit an amount of Rs. 15,450/- (Rupees fifteen thousand four hundred fifty) only in govt. account being the amount of monthly deposits made by 21 RD account holders of the office. The said Smti Jharna Chakraborty accepted the subsequent deposits from the depositors of RD account Nos. 1115677, 1115101, 1115676, 1115598, 1114762, 1113924, 1116056, 1115231, 1113828, 1115493, 1113591, 1114995, 1115172, 1116160, 1115597, 1114763, 1114652, 1113254, 1114557, 1116057, 1114236 without acknowledging the amount by making entry in the pass books or granting receipt in counterfoil of deposit slip and did not credit the amount on the date of receipt of any subsequent date and thereby violated the provisions of Rule 144 read with Rule 143 (3)(a)(1) and 131(3) of Rules for branch offices besides the instructions contained in Rule 96 and Rule 101(1) of Post Office Savings Bank Manual Vol.I read with Rule 4 of Financial Hand Book Vol.I. By doing such, she is also alleged to have failed to maintain absolute integrity and devotion to duty contravening the provision of Rule 17 of P&T Extra Departmental Agents (Conduct & Service) Rules, 1964.

ANNEXURE - II

Statement of imputation of misconduct or misbehaviour in support of article of charges framed against Smti Jharna Chakraborty, EDBPM, Rajarbag EDBO in account with Udaipur Court SO under R.K. Pur H.O.

ARTICLE

That the said Smti Jharna Chakraborty, EDBPM, Rajarbag EDBO in account with Udaipur Court SO under R.K. Pur HO while working as such during the period from Feb'98 to Nov'98, accepted monthly deposits in respect of the following particularised accounts for the amounts shown against each. She had also failed to make any entry in the respective pass books, respective journals and other office records during the respective months and also failed to credit such amounts to the govt. account as required under Rule 144 read with Rule 143(3)(a)(1) and 131(3) of Rules for Branch Offices beside the instructions contained in Rule 96 and Rule 101(1) of Post Office Savings Bank Manual Vol.I read with Rule 4 of Financial Hand Book Vol.I

Particulars of transactions not accounted for

Sl. no.	Account No. (standing at Rajarbag EDBO)	Monthly instalments	Amount of monthly deposits
1	1115677	From Feb'98 to Nov'98	Rs. 700/- @ Rs. 70/- p.m.
2	1115101	From Feb'98 to May'98	Rs. 400/- @ Rs. 100/- p.m.

3	1115676	From Feb'98 to Nov'98	Rs. 500/- @ Rs. 50/- p.m.
4	1115598	From Mar'98 to Sept'98	Rs. 350/- @ Rs. 50/- p.m.
5	1114762	From Apr'98 to Nov'98	Rs. 800/- @ Rs. 100/- p.m.
6	1113924	From Mar'98 to Nov'98	Rs. 1800/- @ Rs. 200/- p.m.
7	1116056	From Feb'98 to Nov'98	Rs. 1000/- @ Rs. 100/- p.m.
8	1115231	From Feb'98 to Nov'98	Rs. 600/- @ Rs. 60/- p.m.
9	1113828	From Feb'98 to Nov'98	Rs. 750/- @ Rs. 75/- p.m.
10	1113591	From Feb'98 to Nov'98	Rs. 250/- @ Rs. 25/- p.m.
11	1115493	From Feb'98 to Nov'98	Rs. 1000/- @ Rs. 100/- p.m.
12	1114995	From Feb'98 to Nov'98	Rs. 500/- @ Rs. 50/- p.m.
13	1115172	From Feb'98 to May'98	Rs. 400/- @ Rs. 100/- p.m.
14	1116160	From Feb'98 to Nov'98	Rs. 1250/- @ Rs. 125/- p.m.
15	1115597	From Feb'98 to Oct'98	Rs. 450/- @ Rs. 50/- p.m.
16	1114763	From Mar'98 to Aug'98	Rs. 300/- @ Rs. 50/- p.m.
17	1114652	From Feb'98 to Nov'98	Rs. 1000/- @ Rs. 100/- p.m.
18	1113254	From Mar'98 to Nov'98	Rs. 450/- @ Rs. 50/- p.m.
19	1114557	From Mar'98 to Nov'98	Rs. 450/- @ Rs. 50/- p.m.
20	1116057	From Feb'98 to Nov'98	Rs. 1000/- @ Rs. 100/- p.m.
21	1114236	From Feb'98 to Nov'98	Rs. 1500/- @ Rs. 150/- p.m.

That the said Smti Jharna Chakraborty, EDBPM, Rajarbag EDBO in account with Udaipur Court SO under R.K. Pur HO in her written statement dated 1-12-1998 had confessed that she accepted the above mentioned deposits but did not credit to the govt. account.

By doing the aforesaid act Smti Jharna Chakraborty is alleged to have violated the provisions of Rule 144 read with Rule 143(3)(a)(1) and 131(3) of Rules for Branch Offices besides the instructions contained in Rule 96 and Rule 101(1) of Post Office Savings Bank Manual Vol.I read with Rule 4 of Financial Hand book Vol.I. She is also alleged to have failed to maintain absolute integrity and devotion to duty contravening the provision of Rule 17 of P&T Extra Departmental Agents (Conduct & Service) Rule, 1964.

ANNEXURE - III

List of documents by which the article of charge framed against Smti Jharna Chakraborty, EDBPM, Rajarbag EDBO in account with Udaipur Court SO under R.K. Pur HO is proposed to be sustained.

1. Written statement dated 1-12-1998 of Smti Jharna Chakraborty, EDBPM, Rajarbag EDBO
2. Branch Office daily account from 1-1-1998 to 31-12-1998 of Rajarbag EDBO.
3. Branch Office RD journals from 28-5-1997 to 19-7-1999 of Rajarbag EDBO.
4. Branch Office account book from 1-1-1998 to 31-12-1998 of Rajarbag EDBO.
5. Rajarbag EDBO RD pass books 1115677, 1115101, 1115676, 1115598, 1114762, 1113924, 1116056, 1115231, 1113828, 1115493, 1113591, 1114995, 1115172, 1116160, 1115597, 1114763, 1114652, 1113254, 1114557, 1116057, 1114236.
6. Written statement dated 17-12-1998 of Smti Pramila Debnath, w/o Shri Mantu Debnath, vill. Chanban, Rajarbag, holder of Rajarbag EDBO RD account No. 1115677.

Control - (2)

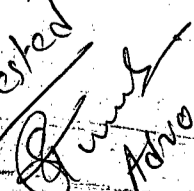
35727

7. Written statement dated 17-12-1998 of Smti Dipali Debnath, holder of Rajarbag EDBO RD account No. 1115101.
8. Written statement dated 17-12-1998 of Shri Mantu Debnath, holder of Rajarbag EDBO RD account No. 1115657.
9. Written statement dated 17-12-1998 of Shri Nitai Das holder of Rajarbag EDBO RD account No. 1115598.
10. Written statement dated 17-12-1998 of Shri Pradip Saha, holder of Rajarbag EDBO RD account No. 1114762.
11. Written statement dated 17-12-1998 of Smti Saraswati Ghosh, holder of Rajarbag EDBO RD account No. 1113924.
12. Written statement dated 19-12-1998 of Shri Bijoy Debnath, holder of Rajarbag EDBO RD account No. 1115231 and 1116056.
13. Written statement dated 17-12-1998 of Smti Sephali Saha, holder of Rajarbag EDBO RD account No. 1113591.
14. Written statement dated nil of Smti Tulsi Debnath, holder of Rajarbag EDBO RD account No. 1115493 witnessed by Shri Balan Chakraborty and attested by SDIPOs, R.K. Pur.
15. Written statement dated 19-12-1998 of Shri Krishna Debnath, holder of Rajarbag EDBO RD account No. 1114995.
16. Written statement dated 17-12-1998 of Shri Basudeb Sarkar, holder of Rajarbag EDBO RD account No. 1115172.
17. Written statement dated 19-12-1998 of Smti Rina Paul, holder of Rajarbag EDBO RD account No. 1116160.
18. Written statement dated 17-12-1998 of Shri Sunil Das, holder of Rajarbag EDBO RD account No. 1115597.
19. Written statement dated 17-12-1998 of Smti Bina Brahma, holder of Rajarbag EDBO RD account No. 1114763.
20. Written statement dated 17-12-1998 of Smti Lili Debnath, holder of Rajarbag EDBO RD account No. 1114557 and 1113254.
21. Written statement dated 17-12-1998 of Smti Sibani Saha, holder of Rajarbag EDBO RD account No. 1116057.
22. Written statement dated nil of Shri Anil Ch. Das, holder of Rajarbag EDBO RD account No. 1114236.

ANNEXURE - IV

List of witnesses by whom the article of charge framed against Smti Jharna Chakraborty, EDBPM, Rajarbag EDBO in account with Udaipur Court SO under R.K. Pur HO is proposed to be sustained.

1. Shri Tapas Kumar Nath, the then offg. SDIPOs, R.K. Pur Sub-Division, now P.A., O/O the D.P.S., Agartala.

Attested

 Advocate

57273

To, The Director Postal Services
Tripura State
Agartala - 799 001,

Sub:- Memo of Charges,

Sir, I response to you Memo. NO-FI-
4/IV/98-99/Pt-1 dt 26.7.2000 I have
the honour to state that I deny the
Charges, brought against me and
Pray for hearing in Person,

Thanking you,

Dtd Udaipur,
9.8.2000,

your faithfully.
- Narina Chakrabarty
(Smt J. Chakrabarty)
Ex - G.D.S BPM, Rajarbagh,

Attached
Smt.
Advocate

Proceeding of regular hearing held on 7.8.2001 at Rurur Ho at 11 AM in C/w disciplinary proceeding under Rule 8 against Smti Tharna Chakraborty, EDBM (now under put off duty) Rajarbag ETPO.

The proceedings were taken up by me at Rurur Ho on 7.8.2001 when the following were present

- ① Sri A.K. Shyam P.O.
- ② Smti Tharna Chakraborty, C.O.
- ③ Sri Chitta Ranjan Bhowmik, D.A.

The P.O. has been asked to present the case and accordingly, the P.O. presented the case orally which has been recorded as follows:-
Deposition of SW-1 Sri Tapas Kumar Nath has been taken. He has been cross-examined by the DA. There is no re-examination. The I.O. put questions to the SW-1.

I Sri A.K. Shyam, P.O. do hereby submit my statement from the prosecution side as follows:-

That Sri Tapas Nath SW-1 while working as SDI Rurur paid a visit to Rajarbag P.O. in late with udairpur Cover S.D. on 1.12.98 and found Smti Tharna Chakraborty, C.O. was working as PPM being suspected irregularities committed by the C.O., he inquired about the irregularities in RD a/c if any, the C.O. had admitted that she had taken deposit of few RD ycs standing at her P.O. but did not show the deposit in

Attested
[Signature]
Advocate

354275

Sharna Chakraborty

Smti Tharna Chakraborty
7.8.2001

Smti Tharna Chakraborty
7.8.2001

[Signature]
7.8.2001

48

Sharma checkbook;

those passbooks that exhibited in Ex S-05 but kept with her. She then produced those 23 passbooks that recorded in Ex S-01 which are lying with her before SD-1 and also admitted that an amount of Rs 16200.00 which were collected by her from the depositors of those passbooks but failed to credit to Govt a/c showing deposit in the prescribed column of the passbook monthwise ~~and~~ duly authenticated by putting her initials and Bo date stamp but misappropriated the amount of Rs 16200.00. She also prepared a list of those passbooks and the amount of misappropriation against each and stated on the list itself (Ex S-01) that she had misappropriated the amount of Rs 16200.00.

The CO. subsequently credited the amount of Rs. 20000.00 towards settlement of the misappropriated amount alongwith the approximate default fees at return to the UCR.

The SD-1 Sri Tapas U. Nath in his deposition on 7.8.2001 categorically stated that the CO. produced 23 nos of RD passbooks which were lying in her custody while he visited the Bo on 1.12.97 and prepared a list thereto stating that she herself misappropriated the amount of Rs 16200.00 from those passbooks and also admitted to make good of the amount promptly.

Certified true in Ex S-01
8/8/2001

Bo 7/8/01

21/8/2001

1354275

to the Govt a/c and subsequently the deposited the amount at Rikhus HO alongwith default fees towards final settlement of the cases. The SW-1 also authenticated EM 3-05 being the 21 RD passbooks out of 23 RD passbooks those produced by the CO. from her custody on 1.12.98 are the same passbooks that exhibited in the list of documents.

Since the CO. kept the RD passbooks in her custody accepted the deposits from the depositors of RD passbooks monthwise for around 8 to 10 months but did not credit the same regularly in those passbooks monthwise but kept the amount in her custody by temporary misappropriation an amount of Rs 16200.00 and subsequently credited the same according to the direction of SW-1 at Rikhus HO alongwith default fees, the charge levelled against the CO. is proved.

Evidence on behalf of the Disciplinary Authority was closed.

The proceeding will be resumed on 23.8.2001 at 11AM at Rikhus HO for hearing defence evidence.

Copies of deposition made by State witness have been handed over to the PO, CO and DA. Summons for defence witness shall be issued by me in time. The proceeding is adjourned at this stage.

(Ch. Chandra Sekhri) (Thane Chandra Sekhri) A.K. Shyam P.O. (P. Chandra Sekhri) I.O.

DA 7/8/01


CO.

P.O.

I.O.

Copy to:-

4. Sri A.K. Shyam, SDIPOS, Agartala East Sub Division, Agartala.
5. Smriti Jharna Chakraborty, EDBPM [now put off duty], Rajarbag BO, Via Udaipur Court.
6. Sri Chitta Ranjan Bhowmik, Retd Mail Overseer, Santirbazar.


(P. Chakraborty)

Asstt Supt of Post Offices
South Sub-Division, Agartala 792 007

29

354275

Recording of Deposition

SW-1 Sni Tapas K Nath
R K Fur
dated 7.8.2001

Depositions of Sni Tapas K Nath, CI,
Agartala aged 42 years s/o Late Sailish
K Nath.

I Sni Tapas K Nath state that
I worked as SDIF, RMPur Sub Pn during
the period from Feb 1998 to Feb 1999.
While working as SDIF RMPur I visited
Rajabag Pn in a/c with Udaipur Court so
on 1.12.98 and then Smti Tharna Chawaborty
worked as BPM Rajabag Pn. The charged
official who has attended the hearing was
the ~~same~~ BPM Rajabag Pn. While I
was doing some official work at Udaipur
Court so on 30.11.1998 it had come to
my notice that a good amount of RD
deposits were being made at Rajabag Pn
on last working day of every month with
huge amount of default fines. Suspecting
some probable irregularities I visited
Rajabag Pn on 1.12.1998 at 10 hours
and interrogated Smti Tharna Chawaborty
regarding RD deposits and whether there
was any irregularity on this matter. Initially
Smti Tharna Chawaborty denied any
sort of irregularity but on further persuasion
she admitted that she had misappropriated
some amount of money against the deposits of

Sharna Chawaborty

Tapas K. Nath -
7/8/01

Chawaborty
7/8/01

7/8/01

7/8/01

354273

4

Sharna Chakrabarty

Some RD accounts of Rajarajag Red. (2)
 Then I asked about the particulars of
 RD a/c and she replied that the RD
 passbooks were lying with her. Then she
 produced Twenty three RD passbooks before
 me which were lying in her custody.
 Then the CO made the list of 23 RD
 accounts with amount of total Rs 16200.00
 in my presence and also in presence of Sri
 Balan Chakrabarty EDDI comm. Date Rajarajag Red
 on 1.12.98. The Ex. S-01 is the same list
 which was prepared by the CO on 1.12.98.
 Then I seized these 23 RD passbooks and
 requested her to credit Rs 20000.00 being
 the total defrauded amount alongwith
 default fine. The CO promptly credited
 Rs 20000.00 at Rurur Ho. The written statements
 of the depositor of the RD passbooks involved
 were taken which were exhibited as
 Ex S-06 to Ex 2-22. The statements of
 the depositors of 17 RD passbooks have been
 authenticated by Sri Sharna Chakrabarty
 stating that the statements are true and
 returned by Sri Balan Chakrabarty on 17.12.98
 and 19.12.98. The passbooks are exhibited
 as Ex-3-05 are the same passbooks those
 produced by the CO on 1.12.98.

Examination in Chief is over.

✓ [Signature] 2/8/99

[Signature] 2/8/99

[Signature] 2/8/99

[Signature] 2/8/99

354273

52

(3)

✓ Cross examination by the defence assistant

Q. Under what capacity you worked during the period from 11.3.97 to 1.3.99?

A - I worked in officiating capacity as SDIC Rukh during above mentioned period.

Q.2 On what basis you visited Rajarbag Po on 1.12.1998.

A. While I was ~~was~~ doing some official works at Udaipur Court S.O., it came to my notice that huge amount of Rs deposits are being made on the last working day of the month with large amount of default fine at Rajarbag Po. Suspecting some irregularity I paid a surprise visit to Rajarbag Po on 1.12.98.

Q.3 whether you submitted any VR after visiting Rajarbag Po on 1.12.98.

Ans. NO, I submitted a report to the civil office on the irregularities found as mentioned in my deposition.

Q.4 You have stated in your deposition that you found the passbooks from the custody of the TAFI but actually the passbooks were collected from the depositor through the CO and handed over to you. What is your answer on this point?

Sharma Chandrakant

Japan no. 20, 21/10/01

Chaitanya Bhatt
2/8/2001

2/8/1991

2/8/2001

52

Shona Chakraverty

10/10/2001

10/10/2001

10/10/2001

10/10/2001

Ans. NO, the passbooks were found (4) from the custody of the BFM.

Q 5. On what basis you recovered Rs 20000 from the CO? Whether it was recovery of misappropriated amount or public money?

Ans. The CO was asked to credit the amount to the Govt account as the CO categorically admitted misappropriation of Rs 16200 in her written statement dated 1.12.98. Additional amount was added to cover default fines etc so that the Bpl does not incur any loss.

Q 6. Under what head the amount was deposited?

Ans. The amount was deposited as UCR at BNFH HO.

Q 7. Whether the written statements were written by the depositor himself or not?

Ans. Most of the written statements were not written by the depositor but it was written by others in presence of the depositor on their consent and the consent was read out to the depositor and being satisfied they signed the statements in presence of the CO and witnesses.

354273

Re-Examination

NIL

Questions by the I.O.

(5) 54

Shri. Anand Chandra

Q. 1. Whether you enquired the entire case?

Ans. Yes.

Q. 2. How you came to the conclusion that there was misappropriation in RD deposits?

Ans. I came to the conclusion on the basis of the written statement of the BPM, as well as statements of the depositor.

Q. 3. Have you verified the correctness of the statements of the depositor and the CD in comparison with the documentary evidences?

Ans. Yes, as well as circumstantial evidences.

Q. 4. — What are the documentary evidences?

Ans. The RD passbooks, statements of the BPM and depositor.

Q. 5. During your inquiry how it was established that the depositor actually deposited the money?

Ans. As per the statements of the CD and the depositor it was established that the depositor actually gave the money to the CD for depositing into the respective RD accounts.

Attested
G. S. (Advocate)

354273

Deposition of Sri Balan Chaurabarty
EDDA cum DMC Rajarbag SDPO aged
35 yrs S/O late Upendra Chaurabarty

DW-3

Rupur

Dated 23.8.2001

I Sri Balan Chaurabarty state that
the written statements as exhibited ~~from~~ as
EX S-07, EX S-08, EX S-09, EX S-10,
EX S-14, EX S-15, EX S-18, EX S-21 were
written by me and the written statements
as exhibited as EX S-06, EX S-11, EX S-12,
EX S-13, EX S-16, EX S-17, EX S-19, EX S-20,
EX S-22 were written by Sri Manindra
Chaurabarty as per instruction of the then
SDPO, Rupur. In some written
statements as exhibited from EX S-06 to
EX S-22 the depositions put signature
on white paper and statements were
written afterwards either by me or by
Sri Manindra Chaurabarty but now I
cannot identify such statements. The
witness signatures were put by me on
the written statements as per instruction
of the then SDPO. The then SDPO
Rupur and the C.O. went to Udaipur
Court P.O. and the then SDPO realised
Rupees Twenty thousand from the CO at
Udaipur Court P.O. in my presence.

Examination in Chief is over.

KTO

F

Attested
(Signature)
(Advocate)

354273

Shri Balan Chaurabarty

Chaurabarty

23.08.01

23/8/01

Balan Chaurabarty

23/8/01

Cross Examination by the P.O.

Q.1. Whether the written statements as exhibited from 2x SOG to 22 were read out to the concerned depositors before putting their signatures?

Ans - Yes, some of these were read out. But I cannot identify those statements now.

Q.2. Whether the words "Statement is true" were written on these statements by the CO. and put her signature in your presence?

Ans - Yes.

Re-examination

gharna chakrabarti
(Thama Chakrabarti)
CO.
23.08.01
(A.K. Shyam)
P.O.

NIL
(P. Chakrabarti)
I.O.

Balan Chakrabarti
23/8/01
(Balan Chakrabarti)
Depositor

Chitra Roy in B...
(C.R. Bhattacharya)
DA.

23/8/01

Proceedings of regular hearing held on 23.8.2001 at RUPur HO in c/o disciplinary proceeding under rule 8 against Smt. Tharna Chakraborty, ED BFM (now under put off duty) Rajarbag ED BFM.

The proceedings were taken up by me at RUPur HO on 23.8.2001 when the following were present:

- ① Sri A.K. Shyam, P.O.
- ② Sri Chitta Ranjan Bhosonik, DA
- ③ Smt. Tharna Chakraborty, CO.

Today's date was fixed for examination of defence witnesses.

Defence witnesses DW-1, DW-2, DW-3 attended the hearing. Their depositions have been taken. Copies of their depositions have been supplied to the P.O., CO. and DA.

The proceedings are adjourned today at this stage. The proceedings will be resumed on 5.9.2001 at 11 AM at RUPur HO for presenting the case by the CO.

Chitta Ranjan Bhosonik
(CR Bhosonik)
DA. 23/8/01

Tharna Chakraborty
(Tharna Chakraborty) (A.K. Shyam)
CO. P.O.

(P. Chakraborty)
I.O.

NO. DP/ASPO/8-1/2001

dttd 23.8.2001

Copy to:-

- (1) Sri A.K. Shyam, P.O.
- (2) Smt. Tharna Chakraborty, CO.
- (3) Sri C.R. Bhosonik, DA.

Deposition of Sri ⁵⁰ Nepaleswar Das, Dy Mail
RNPur aged 58 years s/o Late Jogesh Ch
Das

DW-1.

RNPur
Dated 23.8.2001.

I Sri Nepaleswar Das state that
as per SDIPO RNPur order no. F1/Rajarbag
dtd 24.3.99 I seized the following
documents from the BPN Rajarbag Po
claim ^{statements of the depositor or}

- ① RD Passbook a/c no 1114226
- ② Po journal and RD journal from
Jan 98 to Dec 98
- ③ Po a/c book from Jan 98 to Dec 98
- ④ Po daily a/c from Jan 98 to Dec 98

I submitted my report and above
mentioned documents to the SDIPO
RNPur under my letter no. A1/SB.RD/Vfy/
99 dtd 17.4.99.

Examination in Chief is over.

Cross examination

NIL

gharna chakrabarty-
(Thamachakrabarty) (A.K. Chakrabarty) (P.O.) (P. Chakrabarty) (Nepaleswar Das)
CO. I.O. Deponent
Chitta Rayan Bhattacharya
(CR Bhattacharya)
DA. 12/8

12/8

Deposition of Sri Santinoy Chatterborty
SPM Melaghar SO, the then SPM Udaipur
Court S.O. aged 56 years s/o late Nishikanta
Chatterborty.

DW-2

RUPur

dated 23.8.2001.

I Sri Santinoy Chatterborty state that
Smti Tharna Chatterborty, Co. never attended
Udaipur Court P.O. alongwith Sri Tapas W
Kath, the then SDIPos, RUPur and Rupees
Twenty thousand for crediting the amount.
The then SDIPos RUPur told me that
the said amount was credited as per
at RUPur Ho. The Co. did not hand
over the above mentioned amount to
the then SDIPos RUPur in my presence
and I also did not know whether
the deposits were accepted by the Co.
by impressing date stamps and making
necessary entries in the RD passbooks.

Examination in Chief is over

Tharna Chatterborty There is no cross examination
(Tharna Chatterborty) (A.K. Dhyam) (P.O.) (Sri Santinoy Chatterborty)
C.O. P.O. I.O. Dependent
Chitra Rajan Bhowmik
(CR Bhowmik)
DA.

Proceeding of regular running held on 5.9.2001 at RUPur HO in c/w disciplinary proceeding under Rule 8 against Smt. Tharna Chaurabarty, EDBPM (now under put off duty) Rajarbag EDBO.

The Proceedings were taken up by me at RUPur HO on 5.9.2001 at 11 AM when the following were present.

- ① Sr A.K. Shyam P.O.
- ② Smt. Tharna Chaurabarty, CO.
- ③ Sr Chitta Ranjan Bhoomik, D.A.

Today's date was fixed for submission of statement of defence by the CO. The CO. has intimated that she would submit her statement of defence orally. The CO. was permitted accordingly.

In the defence statement the CO. stated that on 30.11.98 the SDIPo RUPur sent verbal message to her through the EDDA cum EDC to collect all the RD passbooks in which deposits were made by giving default fine. Accordingly she collected ~~on~~ all such RD passbooks on 1.12.98. The SDIPo RUPur alongwith the ops mails went to Rajarbag BDO on 1.12.98 and ^{on 1.12.98} instructed her to prepare a list of RD accounts ~~and~~ mentioning the amount of RD deposits with default fines to make the passbooks upto date and accordingly she prepared the list which was exhibited as EN-1. On 2.12.98 the SDIPo RUPur instructed her

Cont to page-2

Chitta Ranjan Bhoomik
5/9/2001

Tharna Chaurabarty
5/9/2001

10.12.98
5/9/2001

10.12.98

(2).

to to go to Udaipur Court S.O. with Rupee Twenty thousand only for crediting the amount. She handed over Rs Twenty thousand ~~to~~ only to the SDIPo RUPur HO on 4.12.98 at Udaipur Court S.O. The transactions as mentioned in Annexure II of the Charge sheet were not accounted for because the ~~depositor~~ depositor did ~~the~~ not make deposits of the said amount and she collected the amount mentioned in the Annexure II of the Charge sheet from the concerned depositor from 2.12.98 to 3.12.98 and made good the kept amount and handed over the said amount to the SDIPo RUPur HO on 4.12.98. In support of her statement she submitted eighteen number of written statements of the concerned depositor under her letter dated 5.9.2001. Written statements from the depositor of RD a/c no. 1114995, 1116160, 111 4652 could not be ~~sub~~ obtained and submitted as they were out of station. The written statements dtd 1.2.98 was obtained by the SDIPo RUPur and she wrote that statement as the SDIPo RUPur told her to give such statement to keep her service and the SDIPo RUPur instructed her to write "Facts are true" above her signature on the written statements as exhibited from Ex 3-6 to 22 to save her

Cont to page 3

Chaitanya on 5/9/2001

Sharma Chaitanya on 5/9/2001

10-0-01
Chaitanya on 5/9/2001

357273

(3)

Service and on that threat from the SDIPo RUPur she wrote and signed on Ex S-1, Exs 6 to 22. The depositors were misled by the SDIPo RUPur before obtaining their written statements to the effect that their deposits in their passbooks were misappropriated by the BPM and to restore the amount they had to give statements. Actually the statements were written by the EDDA cum EDUC and Sri Manindesa Chandraiah on the instructions of the SDIPo RUPur and the signatures of the depositors were obtained by them and in some cases the signatures of the depositors were obtained on white paper and statements were written either by the EDUC cum EDDA or by mails afterwards on the instructions of the SDIPo RUPur. Since the depositors did not make the deposits in their passbooks as mentioned in Annex II of the Charge sheet, no entry was made in the concerned passbooks, RD journal, Po a/c book and Po daily account. As per the ~~instruction~~ verbal instructions of the SDIPo RUPur on 1.12.98 and 2.12.98 the amount of said deposits were collected by me from the depositors after 1.12.98 and hence there was no misappropriation

Cont to page 4

Chandraiah - RUPur
29/12/98

Shri Manindesa Chandraiah
29.12.98

1.0
29/12/98

5.12.98

63

Q any amount on my part moreover excess amount was recovered from her by giving threat by the SDIPO RUPUR. As per instruction of the SDIPO RUPUR she collected and handed over Rupees Twenty thousand to the SDIPO RUPUR on 4.12.98 as stated earlier. She did not ^{credit} ~~deposited~~ Rupees Twenty thousand at RUPUR HO personally on 9.12.98 under A/Cs-67 receipt no. 13 dt 9.12.98 and for handing over Rupees Twenty thousand to the SDIPO RUPUR on 4.12.98 at Udaipur Court SD. no receipt was given to her by the SDIPO RUPUR. Hence she denied the entire charge levelled against her and did not violate any rules as mentioned in the chargesheet. She had ~~no~~ no further statement to make on the matter.

In view of the defence statement made on 5.9.2001, it is necessary to examine the depositors of the passbooks as mentioned in annexure II of the Charge sheet. Hence next date for examination of the depositors by the I.O. has been fixed on 25.9.2001 at 11 AM at RUPUR HO. Summons to the

Cont to page 5

Chandra Prasad
9/9/2001

Sharma Chandra Prasad
9/9/2001

Don't
9/9/2001
I.O.

373

(5)

deposits will be varied by me
in due course. All concerned should
attend the hearing on 25.9.2001
at 11 AM at Rulw HO.

Hearing today has been
adjourned at this stage.

ghairna chakraborty

(J. Chakraborty)

CO.

(A.K. Shyam)

P.O.

(P. Chakraborty)
I.O.

Chitturaj - Bh...
(CR Bhownik)
DA.

NO. DP/ASP/8-1/2001

dtel 5.9.2001

Copy to: -

(1) Sri A.K. Shyam, P.O.

(2) Sri Tharna Chakraborty, Co.

(3) Sri CR Bhownik, DA.

Attested
(Gund.
Advocate)

Cont to page-2

24273

65

RL No-9256 To
2/5/02

Shri Pranab Chakraborty (Inquiry Officer),
Asstt. Supdt. of Po's.,
Agartala South Sub-Division,
Agartala-799001.

Subject :- Written brief.

Ref:- Rule-8 Inquiry case against Smti Jharna Chakraborty,
ED BFM Rajarbagh Under Udaipur Court S.O.

Sir,

Written brief by the C.O. on the above Case has been
submitted as follows:

1. Charges against the C.O.:- The C.O. has been charged that while the C.O. was working as E.D. BPM, Rajarbagh B.O. during the period from Feb/98 to Nov/98 she failed to credit an amount of Rs. 15,450/- (Rupees fifteen thousand four hundred fifty) only being the amount of monthly deposits made to 21 R.D. A/Cs as particularised in Annexure-II as she did not make entry in the Pass books and, therefore, she violated Rule 144/143(3)(a)(1)/131(3) of Rules for Branch Offices and Rule 96/101(1) of S.B. Mun Vol I and Rule 4 of P&T.FHB Vol.I and further violated Rule 17 of P & T.EDA(C&S) Rules, 1964.

But after careful examination of the charge it has been found that the charge is vague. In the charge it has not been shown how the deposits were made in to the R/D A/Cs and on which date(s) the deposits were made into the A/Cs. Modus - operandi of the so called fraud has not at all been described in the charge which has the effect of denying the reasonable opportunity to the C.O. to Explain for the same. In other way, the disciplinary authority has rather expressed the clear opinion of guilt of the C.O. in the charge which is unfair and unjust. Again the disciplinary authority has invoke the provisions of Rule 96 & Rule 101(1) of P.O. S.B. Manurule Vol.I and also Rule 4 of the P & T.FHB Vol.I which are outside the ambit of application to E.D. employees as they are neither given training from those volumes nor those volumes are supplied to E.D. B P M s for functioning of thus offices. Hence, the Invokation of provisions of those volumes is but an imported liability on the C.O. The Provisions of Rule 144 & 143 of Rule for Branch Offices speak only the operational procedures when the

Attested
Barry
Advocate

depositors make deposits through deposits slips and the Bpm has nothing to do when no deposits are made through deposits slips. Whether the deposits were actually made by the depositors or not this point will be discussed in the succeeding paras of evaluation of evidence.

2.1 Evaluation of Evidence :- In support of the charge the prosecution produced a lot of document which were of no force to the charge. The written statement of the C.O. was obtained by SW-1 by using force, duress and threatening on the day of his visit to the C.O.'s Office, Do R/D Journal, B.O. A/C Books were of no help prosecution, the R/D pass books produced did not show my entry of deposit with impression of date stamp to sustain the fact that the amounts were deposited by the depositors and accepted by the C.O. No pay-in-slip were also produced to show that deposits were accepted by the C.O. the written statements of the depositors of the R/D A/Cs were not made by the depositors themselves. Some were written by SW-3 and some were written by one Sri Manindra Chakraborty O/S Mail and some were written after obtaining signatures of the depositors in blank white paper. As per charge the fraud was alleged to have been committed during the period from Feb/98 to Nov/98 the Office was inspected by the Dy. Supdt. of Pos' Agartala Sri Sunil Das on 17-10-98 for the year 1998 and subsequent inspection of the Office for the year 1999 was made on 03-01-2000 vide Ex.D-I(a & b) but nothing sort of my irregularity was noticed during inspection for period from Feb/98 to 03-01-2000.

2.2 The prosecution produced one SW namely Shri Tapash Kumar Nath, the then IDI Pos' R.K.Pur. During the examination in-Chief he deposed that every month on the last working day a good number of deposits is made at Rajarbagh B.O. and so he visited Rajarbagh B.O. on 01-12-98 on suspicion of fraud. He could not say clearly and specifically that deposits were made at Rajarbagh B.O. on a particular day which was not credited by the BPM and so he visited the Office to inquire into the case. He further deposed that on persuasion the BPM admitted that she misappropriated the amount deposited towards R/D deposits. It clearly shows that the SW-1 misled the C.O. by using force, duress and inducement and the admission of the BPM was not out of her free will the SW-1 deposed that on the day of his visit i.e. 01-12-98 the C.O. prepared a list of 23 R/D pass books

P/3.

with a sum of Rs.16,200/- in presence of him and SW-3 after which he seized 23 Pass Books and on being asked by him the C.O. promptly credited Rs.20,000/- at R.K.Pur H.O. But it appears that Rs.20,000/- was credited at R.K.Pur H.O. on 09-12-98 by SW-1 in the name of the C.O. and not by the C.O. the day of visit i.e. 01-12-98. On the other hand as per diary dated 04-12-98 of SW-1 a sum of Rs.20,000/- was recovered by SW-1 from the C.O. at Udaipur Court P.O. On the other hand when SW-3 ~~was~~ was cross examined by the P.O. it was not corroborated or confirmed from SW-3 that on 01-12-98 the C.O. prepared a list of 23 Pass Books and produced Rs.16,200/- in presence of him and SW-1. Hence, the deposition of SW-1 is quite false and unbelievable. During Examination by I.O. also the SW-1 could not give any satisfactory explanation of the case. The SW-1 based his Case on the basis of written statement of the C.O. Which was obtained through fraud and deceit, the Case is therefore, a looked and fabricated one suggested out of malice by the SW-1 by misusing his Powers as he was not an approved and trained Inspector of Post Offices. The SW-1 who was a frog in a pond could not control him self and he had seen the ocean when he was temporarily promoted to look after as Inspector of Post Offices.

The Charge therefore, against the C.O. has not been established at all and she seems to be exonerated fully.

Signature of the C.O.

Sharna Chakraborty
20/5/02

Yours faithfully,

Chitra Ranjan Bhoomi
(C. R. BHOMI)
Defence Asstt.

20/5/2002

Attested
(Advocate)

54273

Inquiry report on the Departmental enquiry held against Smti Jharna Chakraborty, GDSBPM, [now under put off duty], Rajarbag EDBO in account with Udaipur Court S.O.

Submitted by Sri Pranab Chakraborty, Inquiry Officer,
Vide letter no. D.P/ASPOS/8-1/2001 dated 13.8.2001

List of Exhibited documents.

1. EX S-1 = Written statement dated 1.12.1998 of Smti Jharna Chakraborty.
2. EX S-2 = B.O. Dally accounts from 1.1.98 to 31.12.98 of Rajarbag EDBO.
3. EX S-3 = BO RD Journal from 28.5.97 to 19.7.99 of Rajarbag EDBO.
4. EX S-4 = BO Account book from 1.1.98 to 31.12.98 of Rajarbag B.O.
5. EX S-5 = Rajarbag BO RD passbooks numbers as mentioned in the charge-sheet total 21 numbers.
6. EX S-6 = Written statement dated 17.12.98 of Smti Pramila Debnath.
7. EX S-7 = Written statement dated 17.12.98 of Smti Dipali Debnath.
8. EX S-8 = Written statement dated 17.12.98 of Sri Mantu Debnath.
9. EX S-9 = Written statement dated 17.12.98 of Sri Netal Das.
10. EX S-10 = Written statement dated 17.12.98 of Sri Pradip Saha.
11. EX S-11 = Written statement dated 17.12.98 of Smti Saraswati Ghosh.
12. EX S-12 = Written statement dated 19.12.98 of Sri Bijoy Debnath.
13. EX S-13 = Written statement dated 17.12.98 of Smti Sephali Saha.
14. EX S-14 = Written statement dated NIL of Smti Tulsi Debnath.
15. EX S-15 = Written statement dated 19.12.98 of Sri Krishna Debnath.
16. EX S-16 = Written statement dated 17.12.98 of Sri Basudev Sarkar.
17. EX S-17 = Written statement dated 19.12.98 of Smti Rina Paul.
18. EX S-18 = Written statement dated 17.12.98 of Sri Sunil Das.
19. EX S-19 = Written statement dated 17.12.98 of Smti Bina Brahma.
20. EX S-20 = Written statement dated 17.12.98 of Smti Lili Debnath.
21. EX S-21 = Written statement dated 17.12.98 of Smti Sibani Saha.
22. EX S-22 = Written statement dated nil of Sri Anil Ch. Das.
23. EX D-1 (a & b) = IR dated 17.10.98, IR dated 03.01.2000.
24. EX D-2 (a,b,c,d,e,f,g,h,i) = F/N diaries dated 16.11.98, 1.12.98, 16.12.98, 1.1.99, 16.1.99, 1.2.99, 16.2.99, 1.3.99, 3.3.99.

List of witnesses.

1. SW 1 = Sri Tapash Kr Nath.
2. DW 1 = Sri Nepaleswar Das, O.S. Malls, R.K.Pur.
3. DW 2 = Sri Santi Chakraborty, SPM, Melaghar.
4. DW 3 = Sri Balan Chakraborty, EDIA/EDMC, Rajarbag B.O.

Attested
(Signature)
(Advocate)

Inquiry report in the case against Smti Jharna Chakraborty, GDSBPM, Rajarbag EDBO.

1. Under Rule 8 of ED[Conduct & Service] Rules 1964 read with sub rule [2] read with sub rule [22] of rule 14 of the CCS[CCA] Rules 1965 I was appointed by the DPS, Agartala as Inquiring authority to inquire into the charges framed against Smti Jharna Chakraborty vide memo no. F1-4/IV/98-99/Pt-I dated 15.2.2001 have since completed the enquiry and on the basis of the documentary and oral evidences adduced before me prepared my inquiry report as under—
2. Participation of the Charged officer in the enquiry and defence assistant available to him.

The C.O. participated in the enquiry from beginning to end. She was assisted by Sri Chitta Ranjan Bhowmik, Retired O.S. Malls, Santirbazar as defence assistant throughout the entire proceedings.

3. Article of charge and substance of imputation of misconduct or Misbehaviour.

The following article of charge has been framed against Smti Jharna Chakraborty who while working as EDBPM, Rajarbag EDBO during the period from Feb/1998 to Nov/1998 had failed to credit an amount of Rs. 15450.00 in Govt. account being the amount of monthly deposits of RD account number 1115677, 1115101, 1115676, 1115598, 1114762, 1113924, 1116053, 1115231, 1113828, 1115493, 1113591, 1114995, 1115172, 1116160, 1115597, 1114763, 1114652, 1113254, 1114557, 1116057, 1114230. Smti Jharna Chakraborty alleged to have accepted the subsequent deposits from the depositors of the said account numbers without acknowledging the amount by making entry in the passbook or granting receipt in counterfoil of deposit slip and did not credit the amount on the date of receipt or any subsequent date and thereby violated the provisions of rule 144 read with rule 143[3] [a] [1] and 131 [3] of rules for branch offices besides the instructions contained in rule 96 and rule 101 [1] of Post office savings bank Man. Vol. I read with rule 4 of F.H.B. Vol. I. By doing such, she was also alleged to have failed to maintain absolute integrity and devotion to duty contravening the provision of rule 17 of P & T E.D.A.[Conduct & Service] rules 1964.

According to the statement of imputation of misconduct and misbehaviour the said Smti Jharna Chakraborty during the period from Feb/1998 to Nov/1998 had accepted monthly deposits in respect of the above mentioned RD accounts as detailed in the charge sheet issued under memo no. F1-4/IV/98-99/Pt-I dated 26/31.7.2000. She had also failed to make any entry in the above mentioned RD passbook, respective journals and other office records during the respective months and also failed to credit such amount to the Govt. account as required under rule 144 read with rule 143[3] [a] [1] and 131[3] of rules for Branch offices beside the instructions contained in rule 96 and rule 101[1] of Post

69

354273

80

- 44 -

Office Savings bank Man. Vol. I read with rule 4 of FHB Vol. I. Smti Jharna Chakraborty in her written statement dated 1.12.1998 had confessed that she accepted the above mentioned deposits but did not credit to the Govt. account.

By doing the aforesaid act Smti Jharna Chakraborty is alleged to have violated the provisions of rule 144 read with rule 143[3] [a] [1] and 131[3] of rules for Branch offices besides the Instructions contained in rule 96 and rule 101[1] of POSB Man. Vol. I read with rule 4 of FHB Vol. I. She is also alleged to have failed to maintain absolute integrity and devotion to duty contravening the provision of rule 17 of P & T EDA [Conduct & Service] rules 19[14].

4. Case of the Disciplinary Authority.

On 07.08.2001 Sri A.K. Shyam, PO of the case presented the case on behalf of the disciplinary authority as follows:-

Sri Tapas Nath while working as SDI, R.K.Pur paid a visit to Rajarbag B.O. on 1.12.1998 and found Smti Jharna Chakraborty, C.O., was working as BPM. Being suspected, Irregularities committed by the C.O., he enquired about the irregularities in RD account. If any, the C.O. had admitted that she had taken deposits of few RD accounts standing at her BO but did not show the deposits in those passbooks that exhibited in EXS.05 but kept with her. She then produced those 23 passbooks that recorded in EXS.01 which were lying with her before SW-1 and also admitted that an amount of Rs. 16200.00 which were collected by her from the depositors of those passbooks but failed to credit to Govt. account showing deposits in the prescribed column of the passbooks monthwise duly authenticated by putting her initial and BO date stamp but misappropriated the amount of Rs. 16200.00. She also prepared a list of those passbooks and the amount of misappropriation against each and stated on the list itself [EXS.01] that she had misappropriated the amount of Rs. 16200.00.

The C.O. subsequently credited the amount of Rs. 20000.00 towards settlement of the misappropriated amount alongwith the approximate default fees at R.K.Pur H.O. as U.C.R.

The SW-1 Sri Tapas Nath in his deposition on 7.8.2001 categorically stated that the C.O. produced 23 numbers of RD passbooks which were lying in her custody while he visited the B.O. on 1.12.1998 and prepared a list thereto stating that she herself misappropriated the amount of Rs. 16200.00 from those passbooks and also admitted to make good of the amount promptly to the Govt. account and subsequently she deposited the amount at R.K.Pur H.O. alongwith default fees towards final settlement of the cases. The SW-1 also authenticated EXS.01 being the 21 RD passbooks out of 23 RD passbooks those produced by the C.O. from her custody on 1.12.1998 are the same passbooks that exhibited in the list of document.

Since the C.O. kept the RD passbooks in her custody accepted deposits from the depositors of RD passbooks month wise for around 8-10 months but did not credit the same regularly in those passbooks month wise but kept the amount in her custody by temporary misappropriating

an amount of Rs. 16200.00 and subsequently credited the same according to direction of SW-1 at R.K.Pur H.O. along with default fees. The charges leveled against the C.O. is proved.

SW-1 Sri Tapas Nath in his deposition dated 07.08.2001 stated that while officiating as SDIPOs, R.K.Pur, he visited Rajarbag B.O. in account with Udaipur Court S.O. on 1.12.1998 then the C.O. was working as BPM. While doing some official works at Udaipur Court S.O. on 30.11.1998, it had come to his notice that a good amount of RD deposits were being made at Rajarbag B.O. on last working day of every month with huge amount of default fines. Suspecting some irregularities, he visited Rajarbag B.O. on 1.12.1998 at 10 hours and interrogated the C.O. regarding RD deposits, initially the C.O. denied the matter but later on the C.O. admitted that she had misappropriated some amount of money against the deposits of some RD accounts, the C.O. also admitted to him that the RD passbooks were lying with her. Then the C.O. produced 23 RD passbooks before SW-1, the CO made the list of 23 RD accounts with amount of Rs. 16200.00 in presence of SW-1 and Sri Balan Chakraborty. Then the SW-1 seized those 23 RD passbooks and requested the C.O. to credit Rs. 20000.00. The C.O. credited Rs. 20000.00 at R.K.Pur H.O. In cross examination the SW-1 admitted that most of the written statements as exhibited as EXS-06 TO 22 were not written by the depositors but it were written by the others in presence of the depositors on their consent and the contents were were read out to the depositors and being satisfied they signed the statements in presence of the C.O. and witness. The SW-1 also admitted before the I.O. that on the basis of the statements of the C.O. and the depositors in his inquiry report he established that the depositors actually gave the money to the C.O. for depositing into the respective RD accounts. In the brief the P.O. repeated the same points as presented by him on 7.8.2001 only with the addition that the C.O. had admitted the statements of the depositors on putting her signature thereon duly admitted "Statement is true" [EXS-06 to 22]. In the cross examination the DW-3 also admitted the fact. The brief was concluded by the P.O. that the C.O. kept the RD passbooks as exhibited EXS-05 in her custody, duly accepted the monthly instalments from the depositors but failed to credit the said amount to Govt account and thus the charges leveled against the C.O. is proved beyond doubt.

5. Case of the defendant.

Sri Nepaleswar Das O.S. Malls, R.K.Pur, Sri Santi Chakraborty, SPM, Melaghar, Sri Ealan Chakraborty, EDDA/EDMC, Rajarbag were the three witnesses from the defence side. In the defence statement the C.O. stated that on 30.11.1998 the SDI, R.K. Pur sent verbal message to her through the EDDA/EDMC to collect all the RD passbooks in which deposits were made by giving default fines. Accordingly she collected all such RD passbooks on 1.12.1998. The SDIPOs, R.K.Pur along with the o/s mails went to Rajarbag B.O. on 1.12.98 and 2.12.98. On 1.12.98 SW-1 instructed the C.O. to prepare a list of RD accounts mentioning the amount of RD deposits with default fines to make the passbook upto date and accordingly she

prepared the list which was exhibited as EXS-1. On 2.12.98 the SDIPOs, R.K.Pur instructed her to go to Udaipur court S.O. with Rs. 20000.00 for crediting the amount. The C.O. handed over Rs. 20000.00 to SW-1 on 1.12.98 at Udaipur court S.O. The C.O. stated that the transactions as mentioned in Annexure II of the charge sheet were not accounted for because the depositors did not make deposits of the said amount and she collected the amount mentioned in the Annexure II of the charge sheet from the concerned depositors from 2.12.98 to 3.12.98 and made good the rest amount and handed over the said amount to the SW-1 on 4.12.98. In support of her statement, the C.O. submitted 18 numbers of written statements of the concerned depositors. Written statements from the depositors of RD account numbers 1114995, 1116160, 1114652 could not be obtained and submitted as they were out of station. The written statement dated 1.12.98 were obtained by SW-1 and the C.O. wrote that statements as the SW-1 told her to give such statement to keep her service and SW-1 instructed her to write "Facts are true" above her signature on the written statements as exhibited from EXS06 to 22 to save her service and on that threat from the SW-1 the C.O. wrote and signed on EXS-1, EXS-06 to 22. The C.O. also stated that the depositors were misled by the SW-1 before obtaining their written statements to the fact that their deposits in their passbooks were misappropriated by the BPM and to restore the amount they had to give statements. Actually the statements were written by the EDDA/EDMC Rajarbag and Sri Manindra Chakraborty on the instruction of the SW-1 and the signature of the depositor were obtained by them and in some cases the signature of the depositors were obtained on white paper and the statement were written either by the EDDA/EDMC or Mail overseer afterwards on the instruction of SW-1. On 1.12.98 and 2.12.98 the amount of the said deposit were collected by the C.O. from the depositors after 1.12.98 and hence there was no misappropriation of any amount by the C.O. Moreover excess amount was recovered from the C.O. by giving threat by the SW-1. The C.O. collected and handed over Rs. 20000.00 to the SW-1 on 4.12.98 as stated earlier. The C.O. did not credit Rs. 20000.00 at R.K.Pur H.O. personally on 9.12.98 under ACG-67 receipt no. 13 and for handing over Rs. 20000.00 to the SW-1 on 4.12.98 at Udaipur court S.O., no receipt was given to the C.O. by the SW-1. The C.O. denied entire charges leveled against her and stated that she did not violate any rule as mentioned in the charge sheet. In the written brief the C.O. described the charges as vague, in the charge sheet it was not shown how the deposits were made into the RD accounts and the dates on which the deposits were made into the accounts. Modus operandi of the fact was not described in the charge sheet and the Disciplinary authority expressed the clear opinion of committing of the offence by the C.O. which is unfair and unjust. The Disciplinary authority invoked the provisions of the POSB Man. Vol-I and P & T FHB Vol.I which are out side the ambit of application to ED Employees as they were neither given training from these Volume nor those volume were supplied to BPMs. The provisions of rule 144 and 143 of rule for BOs speak only the operational procedures when the depositors make

deposits through deposit slips and the BPM has nothing to do when no deposit is made through deposit slips. The written statement of the C.O. was obtained by SW-1 by using force, duress and threat on the day of visit. No entry of deposit was made in B.O. RD Journal, BO Account book and in the RD passbook produced and evidence which could sustain the fact that the depositors deposited the amount and the C.O. accepted it. No pay-in slip was produced to show that the deposits were accepted by the C.O., the written statements by the depositors were not made by the depositors themselves. The B.O. was inspected by DSP, Agartala on 17.9.98 and 3.1.2000 but no such irregularity was noticed during inspection during the period from Feb/98 to 3.1.2000. The SW-1 based his case against the C.O. on the written statements which were obtained through fraud and deceit. The case is therefore a fabricated one. The charges, therefore, have not been established at all against the C.O.

6. Analysis and assessment of evidence.

In the charge sheet dated 26/31.7.2000 under Annexure III, 23 documents were listed and under Annexure IV, only the name of one witness Sri Tapas Nath was listed. The documents listed from SL 2 to 5 are the records of Rajarbag B.O. and the documents listed at SL 1, 6 to 22 are the written statements. The entire case is found based on the documents listed at SL 1, 6 to 22. In this case the names of the depositors of the concerned passbooks whose written statements were listed as documents under Annexure III were not listed under Annexure IV as witness. The written statement of the C.O. dated 1.12.1998 [EXS-1] cannot be termed as written statement in true sense. This document is addressed to none and also not in proper format. In the deposition dated 7.8.2001, SW-1 stated that most of the written statements of the depositors [EXS-6 to 22] were not written by the depositors but it were written by others in presence of the depositors on their consent and the contents were read out to the depositors and being satisfied they signed the statements in presence of the C.O. and witness. In such cases proper endorsements to this effect must be included in the written statements as these are being used as vital evidences against the C.O. and Rs. 20000.00 was recovered from the C.O. on the basis of these statements. Such endorsement as required by the general principle of evidence is absent in all such written statements. DW-3 in his deposition dated 23.8.2001 stated that written statements as exhibited under EXS-7 TO 10, 14, 15, 18, 21 were written by him and the written statements as exhibited as EXS-6, 11, 12, 13, 16, 17, 19, 20, 22 were written by Sri Manindra Chakraborty Mail overseer as per instruction of SW-1. In some written statements as exhibited from EXS-6 to 22, the depositors put signatures on white paper and statements were written afterwards either by himself or by Sri Manindra Chakraborty. Here in EXS-1, EXS-6 to 22 Sri Balan Chakraborty DW-3 was the witness. In this case SW-1 in his deposition dated 7.8.2001 stated that he seized those 23 RD passbooks from the custody of the BPM, but no seizer list was produced by the prosecution or included under Annexure III of the charge sheet. During enquiry the C.O. submitted written statements of the depositors of RD

24

account no. 1115172, 1115677, 1114763, 1115676, 1114557, 1113924, 1113591, 1115997, 1114236, 1116057, 1115101, 1114762, 1115598, 1115493, 1113254, 1113828, 1115231, 1116056, whose contents are opposite to the contents of the written statements exhibited as EXS-6 to 22. Rule of evidence says that shifting statements establish falsehood of the basic statement and such statement cannot be depended upon. Considering the circumstances, summons were issued to the depositors of the RD passbooks to appear before the I.O. In the depositions dated 25.9.2001 Smti Saraswati Ghosh depositor of RD account no. 1113924 intimated that her statement dated 7.12.98 was correct and the RD passbook was kept with her. Smti Bina Brahma depositor of RD passbook account no. 1114763 in her deposition dated 25.9.2001 gave the same reply as above and in addition intimated that on 17.12.98 her signature was obtained on a blank paper and contents were not known to her. Sri Bijoy Debnath gave the same type of reply in his deposition dated 25.9.2001. Smti Pramila Debnath, Smti Tulsi Debnath gave the same kind of reply in their deposition dated 25.9.2001 in front of the I.O. Other depositors did not appear before the I.O.

In this case it is first required to be established that the depositors of the RD passbooks as mentioned in the charge sheet actually deposited the money against their respective accounts or not. Whether the RD passbooks involved in this case were actually kept in the custody of the BPM or not. In this case on the above mentioned matter burden of proof lies on the prosecution. What are the supportive documents produced by the prosecution in support of the deposits made against those RD accounts? There was no entry in the RD passbooks about the said deposits, no entry in BO RD Journal, no entry in the BO account books. No counterfoil of SB-102 in support of deposit was produced, specific dates of deposits by the depositors were not mentioned by the depositors or prosecution side. Are the documents EXS-1, EXS-6 to 22 are sufficient to support the said RD deposits whereas their credibility/dependability/authenticity have become questionable on the basis of above mentioned all discussions? In EXS-01, the C.O. wrote that She misappropriated Rs. 16200.00 of 23 passbooks but in the chargesheet, which is based on this writings, the charge was that the C.O. failed to credit Rs. 15450.00 being the monthly deposits made in 21 RD passbooks. Here the basic document produced by the prosecution [EXS-01] is not the in toto supportive to the charges. Another factor is that in EXS-01 the C.O. wrote that She misappropriated Rs. 16200.00. Misappropriation is a criminal offence which should be tried in the Court of Law under CRPC and not departmentally. I am bound to write this because EXS-01 is the only basic document on which the entire case stands. The documents listed in Annexure III from Sl. 2 to 5 do not show any proof that the depositors made any deposit for which charges were framed. The developments in the enquiry made the documents listed from Sl. 6 to 22 opaque. No selzer list was produced by the prosecution, so it also could not be established in the enquiry that the RD passbooks as listed in the charge sheet were actually in the custody of the BPM and were not in the custody of the depositors. In this case it has also

57354273

been focused in the inquiry that documents as listed from EXS-6 to 22 are not dependable. The document as listed as EXS-1 is based on the documents EXS-6 to 22. The C.O. admitted on EXS-1, whatever might be the reason, but subsequently she denied the charges and the prosecution could not establish the following points clearly.

- a) Whether the RD passbooks as listed in the chargesheet were actually in the custody of the BPM or the depositors.
- b) Whether the RD deposits were actually made by the depositors or not.
- c) On which dates the depositors made the deposits and what are their supportive documents.
- d) If the passbooks were seized from the custody of the BPM, why seizer list was not prepared.

In the inquiry the response from the prosecution side is found weak on the above points and indications were also absent in the charge sheet. If the deposits cannot be established clearly and specifically documentarily and circumstantially, the subsequent charges leveled against the C.O. do not stand and the entire charge become non - est.

As an I.O., I am duty bound to process case and reach decisions in a manner which is lawful and just.

In view of the circumstances mentioned above, the charges leveled against the C.O. have become cloudy and opaque and I have no other alternative but to give benefit of doubt to the C.O.

7. Findings

On the basis of the documentary and oral evidence adduced in the case before me and in view of the reasons given above, I hold that the charges leveled against Smt Jharna Chakraborty, GDSBPM [now under put off duty] Rajarbag B.O. have not been proved beyond doubt.

[Signature]
Postmaster,
Agartala-799001. 12/8/11

[Signature]
Attestal
(Advocate)

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES : AGARTALA

No.F1.4/IV/98-99/Pt.I

Dated at Agartala, the 15th April, 2004

It was proposed to take action under Rule 8 of P&T ED Agents (Conduct and Service Rules) now revised as Rule 10 of GDS (Conduct and Employment Rules) 2001 vide this office Memo of even No. dtd.15.02.01 against Smt Jharna Chakraborty, GDS BPM Rajarbag EDBO. The charged official was put off duty vide SDIPOs. Radhakishorepur Memo No.A2/Rajarbag dtd.07.07.2000 and ratified vide this office Memo of even No. dtd.12.07.2000.

In the statement of article of charges framed against Smt Jharna Chakraborty, EDBPM Rajarbag EDBO in account with Udaipur Court Sub Post Office it was stated that during the period from February 1998 to November 1998 Smt Jharna Chakraborty failed to credit an amount of Rs.15,450/- (Rupees fifteen thousand four hundred and fifty) only in Govt. account being the amount of monthly deposits made by 21 RD account holders of the office. Smt Jharna Chakraborty also accepted deposits from holders of RD Account Numbers 1115677, 1115101, 1115676, 1115598, 1114762, 1113924, 1116056, 1115231, 1113828, 1115493, 1113591, 1114995, 1115172, 1116160, 1115597, 1114763, 1114652, 1113254, 1114557, 1116057 & 1114236 without acknowledging the amount deposited by making entry in the passbooks or granting receipt in counterfoil of the deposit slip. The official was charged accordingly with the violation of provision under Rule 144 read with Rule 143(3)(a)(1) & Rule 131(3) of Rules of Branch Offices besides instructions contained in Rule 96 & Rule 101 (1) of Post Office Savings Bank Man Vol.I read with Rule 4 of Financial Hand Book Vol.1. The official was also charged with having failed to maintain absolute integrity and devotion to duty contravening the provision of Rule 17 of P&T ED Agents (Conduct and Service) Rules, 1964.

In her statement dtd.01.12.1998, the Charged Official had confessed to having accepted the above mentioned deposits and not having credited them to Govt. Account. However, in response to this office memo of even No. dtd.26.07.2000 the C.O. denied the charges and prayed to be heard in person in her representation dtd. nil received in this office on 14.08.2000. Accordingly vide this office memo of even No. dtd.23.08.2000 an enquiry was ordered to be held under Rule 8 of the Posts & Telegraph ED Agents (Service and Conduct) Rules 1964.

The enquiry was conducted and concluded by Sri P. Chakraborty and submitted to this office on 13.08.2002. The findings of the salient features of the enquiry report are as follows :

- (i) The case was detected by the SDI, R.K.Pur on a visit to Rajarbag Branch Office on 01.12.1998 where the C.O. was working as BPM. On examination of the RD Accounts, certain irregularities were detected and it was admitted by the C.O. that she had accepted deposits of the RD account holders but had not entered the same to Govt. account. The C.O. admitted to a sum of Rs.16,200/- (Rupees sixteen

Attested
(Signature)
Advocate

thousand five hundred) only having been collected by her and not been credited to the Govt. account.

- (ii) In his deposition, the SDI, R.K.Pur stated before the I.O. that during his visit to Rajarbag B.O. on 01.12.1998, the C.O. produced 23 RD passbooks which were lying in her custody and prepared a list thereof with the amount misappropriated from these accounts amounting to Rs.16,200/- (Rupees sixteen thousand two hundred) only.
- (iii) The SDI further stated that it had come to his notice during the course of official work at Udaipur Court S.O. on 30.11.1998 that a large number of RD deposits were made in Rajarbag Branch Office on the last working day of every month with huge amount of default fines. Suspecting irregularities he visited Rajarbag Branch Post Office on 01.02.1998 to investigate the matter.
- (iv) After admitting to the misappropriation in her written statement, the C.O. made good the loss and subsequently deposited an amount of Rs.20,000/- (Rupees twenty thousand) only towards final settlement of the cases.
- (v) During cross examination the SDI R.K.Pur stated that the written statements exhibited as EX S6 to 22 were written by persons other than the depositors but in the presence of the depositors and with their consents. The contents of the same were read out to the depositors who signed the statements in presence of the C.O. and witness.
- (vi) The C.O. stated that on 30.11.1998 the SDI, R.K.Pur sent a verbal message to her through the EDDA / EDMC to collect all RD passbooks in which deposits were made by giving default fines. She didn't do so accordingly on 01.12.1998. The SDIPOs, R.K.Pur visited Rajarbag B.O. on 01.12.1998 and instructed C.O. to prepare a list of RD accounts mentioning the amount of RD deposits with default fines to update the passbooks. The C.O. did so accordingly. The C.O. further stated that on 02.12.1998, the SDI, R.K.Pur instructed her to go to Udaipur Court S.O. with Rs.20,000/- (Rupees twenty thousand) only and to credit the amount in the Govt. account. The C.O. further stated that Rs.20,000/- was handed over to the SDI, R.K.Pur on 04.12.1998 at Udaipur Court S.O.
- (vii) As per the C.O., transaction mentioned in Annexure 2 of the charge sheet but not accounted for as the depositors had not made the deposits of the said amounts. She collected the amount mentioned in the Annexure 2 of the charge sheet from the concerned depositors on 03.12.1998 and made good the rest of the amount and handed all of it to the SDI on 04.12.1998.
- (viii) The C.O. has referred the 18 written statements of RD depositors and stated that she was instructed by the SDI to write "facts are true" above her signature on the written statements under duress.

- (ix) The C.O. also stated that the depositors were misled by the SDI in order to obtain their written statements by telling them that their deposits have been misappropriated by the BPM and they have to give statement in order for the amount to be deposited by them to be restored. In some cases, it was alleged by the C.O. that the signature of the depositors were obtained on plain paper and the statement was written subsequently either by the EDDA / EDMC or mail overseer on the instruction of the SDI.
- (x) The C.O. denied all the charges stating instead that Rs.20,000/- (Rupees twenty thousand) only deposited under ACG-67 Receipt No.13 at Udaipur Court S.O. on 04.12.1998 was not personally deposited by her but was instead handed over to the SDI without any receipt. The C.O. further contains that in the charge sheet the dates on which the deposits were made in the accounts and how the deposits were made was not mentioned. The C.O. disputed the application of provisions of Post Office Savings Bank Man.I and P&T FHB Man. Vol.I of ED employees. Lastly, the C.O. stated that no pay-in-slips were produced to show that deposits were made and accepted by the C.O. The B.O. was inspected by the DSP, Agartala on 17.09.1998 and 03.01.2000 but no such irregularity was detected.

I have gone through the analysis and findings of the Inquiry Officer and my own conclusions are as follows:

The I.O. has stated that the entire case is based on the written statements of the depositors. This is not only true but also the most definite and sacred testimony as it is the customers themselves and in sufficiently large numbers who have stated that deposits had been made by them into their RD accounts regularly. Their statements have to be seen as unbiased and true due to the fact that their signature appeared at the bottom of the statement. Even though some of them have stated that their signatures were obtained in blank papers none of them has stated that the allegation that amount deposited by them and alleged to have been misappropriated by the C.O. was incorrect. It would, therefore, be correct to presume that all the depositors who appeared in person before the I.O. had in fact made the deposits as mentioned in the charge sheet.

I cannot agree with the assessment of the I.O. that the written statement of the C.O. dtd.01.12.98 cannot be treated as written statement in the true sense as it is addressed to no one and not in the proper format. I am not aware of any proper format for making such statements nor are statements necessarily to be addressed to any one in particular. What is important is whether the person making the statement has signed it in the presence of witnesses or not. On these accounts the statement holds good and should be treated as such.

The I.O. observes that no entries were found in the RD passbooks, BO RD journal or the BO accounts book. No counterfoil of SB-103 in support of the deposit produced or specific dates of the deposits by the depositors mentioned by either the depositors or prosecution. If the charge of misappropriation is to be accepted against the charged official it should also be realized that the above mentioned documents and records are all

in the custody of the BPM herself. There is no one else to exercise any supervision or check and balance in the office. The records could have been easily manipulated to help in any misappropriation but I definitely agree that non-availability of entries corresponding with the deposits are any proof of the guilt of the C.O. By the same token they can neither be any proof of her vindication.

The I.O. has pointed out the difference in the amount stated to be misappropriated by the C.O. on 01.12.98 of Rs.16,200/- (Rupees sixteen thousand two hundred) only and the amount of Rs.15,450/- (Rupees fifteen thousand four hundred and fifty) only mentioned in the charge sheet. Surprisingly the I.O. has observed that misappropriation is a criminal offence which should be tried in the court of law under CRPC and not departmentally. I think the I.O. has overstepped his jurisdiction by making such a comment which is not relevant to the job assigned to him which was of establishing whether the charge is labeled against the C.O. stands proved or not.

In conclusion, the statements made by the depositors have to be taken at face value. And since neither the defense nor the depositors have proved that their statements are false it is established that deposits were in fact made by them in the Rajarbag Branch Office. I cannot understand why the charged official would so willingly make a payment of Rs.20,000/- (Rupees twenty thousand) only if her intentions were honest. Rs.20,000/- (Rupees twenty thousand) only was not a small amount and for a GDS employee whose recruitment and service conditions are governed by specific rules of the Govt. to make such a payment to another person merely under threat of loss of job is not tenable. The statement of the C.O. dtd.01.12.98 is the final nail in the coffin as far as establishing temporary misappropriation of Govt. funds is concerned.

Hence, by applying the principle of preponderance of probability I find the charges leveled against Smt Jharna Chakraborty, GDSBPM, Rajarbag B.O. proved.

ORDER

I, Harpreet Singh, Director Postal Services, Agartala Division do hereby punish Smt. Jharna Chakraborty GDSBPM, Rajarbag B.O. with removal from employment with immediate effect.

(Harpreet Singh)

Director Postal Services
Agartala - 799 001.

Copy to:

Regd. AD 1. Smt Jharna Chakraborty, Ex-BPM, Rajarbag B.O. in a/c with Udaipur Court S.O.

Under Inv. 2. The Postmaster, R.K.Pur H.O.

-- (5) : --

Under Inv. 3. The SDIPOs, R.K.Pur Sub Dn., R.K.Pur -- 799120.

4. Estt. Br., O/O the D.P.S., Agartala.

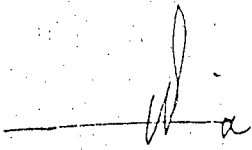
5. Punishment file, O/O the D.P.S., Agartala.

6. Vig. File, O/O the D.P.S., Agartala.

Under Inv. 7. Vig. File, O/O the Chief P.M.G., N.E. Circle, Shillong -- 793 001.

8. O/C.

9. Spare.


Director Postal Services
Agartala -- 799 001.

*Attested
By
Advocate*

73

ANNEXURE K

To
The Chief Postmaster General
NE Circle, Shillong.
Through DPS / Agartala.

Sub : Appeal against the punishment order issued under DPS Agartala memo No FI.4/IV/98-99/pt1/ dtd 15-04-04 under rule 10(2) of EDA conduct and service Rules.

Respected Sir,

I have the honour to submit the following facts and circumstances against the punishment order issued vide DPS Agartala memo FI.4/IV/98-99/ Pt I Dtd 15-04-04:

- a) That the above mentioned punishment order was issued removing me from the employment as BPM Rajarbag BO.
- b) The case was inquired into by the I.O. and report was submitted to the disciplinary authority as found mentioned in the punishment order dtd 15-04-04 at para 4.
- c) Before awarding the punishment, the disciplinary authority did not follow the procedure as laid down rule 15(1-A) (1-B) in the ccs(CCA) rules 1965. Copy of inquiring report was not forwarded to me by the disciplinary authority before awarding punishment depriving me the scope of submission of my representation.
- d) The disciplinary authority did not give any scope to me to submit my representation on the basis of the inquiry report and did not take into account such representation before awarding punishment to me.
- e) The punishment order reveals disagreement of the Disciplinary authority with the inquiry report but the reasons for such disagreement was not communicated to me before awarding the punishment to me depriving me from submission of my representation as laid down GOI's instruction no. 7 under rule 15 of ccs (CCA) rules 1965 (G.I.Deptt of per & Trg, OM No. 11012/2/22/94 - Estt (A) Dtd 27- 11-1995).

Attested
By
(Advocate)

3 54273

In ~~the~~ view of above it is clear that the above mentioned punishment order was issued violating the above mentioned rules and provisions arbitrary and as such the punishment order issued vide DPS/Agt. Memo No. FI.4/ IV/ 98-99/Pt I Dtd 15-04-04 is not supported by rules in force and liable to be set aside with immediate effect.

It is therefore, requested kindly to examine the case and arrange to issue necessary order on the matter.

Dtd. Rajarbag 08/ 05/04

Jharna Chakraborty
yours faithfully
Jharna Chakraborty

(Jharna Chakraborty)
Ex B.P.M Rajarbag.

Enclosed :-

1. Memo No - FI.4/ IV/ 98-99/ Pt I Dtd 26/07/2000 to 31/07/2000.
2. Order No. FI.4/ IV/ 98-99/ Pt I dtd 15th April 2004.

Advance copy

To the Chief Postmaster General NE Circle Shillong.

Attested
Advocate

54273

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL, N.E. CIRCLE
SHILLONG-793 001.

Memo No. Staff/109-4/2004,

Dated at Shillong, the 26.8.2004.

ORDER

Subject: Appeal dated 08.5.2004 from Smt. Jharna Chakraborty, ex-BPM, Rajarbag Branch Post Office (under Udaipur Court SO/Radhakishorepur HO), against orders of punishment issued under DPS, Agartala Memo No.FI-4/IV/1999/Pt.I dated 15.4.2002 under Rule-10 of GDS (Conduct & Employment) Rules, 2001.

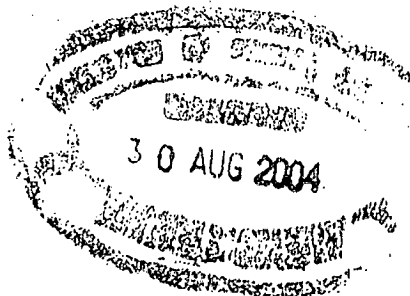
Reference :

- (a) Charge Sheet under Rule-8 of P&T EDA (Conduct & Service) Rules, 1964, as issued vide DPS, Agartala Memorandum No.FI-4/IV/98-99/Pt.I dated Agartala, 26/31.7.2000.
- (b) Orders of punishment, vide DPS Agartala Memo No. FI-4/IV/98-99/Pt.I dated 15.4.2004.

- (c) Appeal dated 08.5.2004 from Smt. Jharna Chakraborty, ex-BPM, Rajarbag Branch Post Office (under Udaipur Court SO/Radhakishorepur HO), against orders of punishment issued under DPS, Agartala memo No.FI-4/IV/1999/Pt.I dated 15.4.2002 under rule-10 of GDS (Conduct & Employment) Rules, 2001.

2. The case has been reviewed by the undersigned. The case relates to charged official namely, Smt. Jharna Chakraborty, EDBPM, Rajarbag EDBO (under Udaipur Court SO/Radhakishorepur HO), during the period February, 1998 to November, 1998 wherein Smt. Jharna Chakraborty failed to credit an amount of Rs.15,450/- only to Government Accounts, which being the amounts of the monthly deposits made by 21 Recurring Deposit holders of the said Branch Post Office. Smt. Jharna Chakraborty also accepted deposits from holders of RD Account Numbers 1115677, 1115101, 1115676, 1115598, 1114762, 1113924, 1116056, 1115231, 1113828, 1115493, 1113591, 1114995, 1115172, 1116160, 1115597, 1114763, 1114652, 1113254, 1114557, 1116057 & 1114236 without acknowledging the amount deposited by making entry in the pass books or granting receipt in counterfoil of the deposit slip. The official was charged accordingly with the violation of provision under Rule 144 read with Rule 143 (3)(a)(1) & Rule 131 (3) of Rules of Branch Offices besides instructions contained in Rule 96 & Rule 101 (1) of Post Office Savings Bank Man Vol. I read with Rule 4 of Financial Hand Book Vol. I. The official was also charged with having failed to maintain absolute integrity and devotion to duty contravening the provision of Rule 17 of P&T ED Agents (Conduct and Service) Rules, 1964.

1



Attested
(Advocate)

13 54273

3. The above charged official in her statement dated 01.12.1998, has confessed to having accepted the above mentioned deposits and not crediting them to Government/Post Office Account. Necessary Departmental Inquiries have been conducted. The case was detected by Inspector Posts, Radhakishorepur Postal Sub-Division, while visiting above mentioned Branch Post Office; on 01.12.1998, where the charged official was working as Branch Postmaster. During course of examination of the RD Accounts, certain irregularities were detected and it was admitted by the charged official that she had accepted deposits of RD Account holders, but not entered the amounts, to Government Account. The charged official had also admitted that a sum of Rs.16,200/- only was collected by her and not credited to Government Account. On 01.12.1998, the charged official had produced 23 RD Pass Books, which were lying in her custody, relating to which she had misappropriated deposits amounting to Rs.16,200/- only.

4. After admitting to the misappropriation in a written statement, the charged official has credited Rs. 20,000/- only, on 04.12.1998, towards a settlement of the defrauded accounts.

5. *All* the written statements indicate that the depositors of the said RD Accounts had made the purported deposits at the Branch Post Office which had been misappropriated by the charged official. Further, the RD Pass Books, the BO Journal and the BO Account Books were all under the custody of the charged official, in the capacity of BPM. Therefore, it is evident that the charged official as BPM of Rajarbag EDBO had manipulated office records to enable misappropriation of Government funds.

6. On careful study of the case, I am convinced of the misconduct of Smt. Jharna Chakraborty, ex-GDS BPM, Rajarbag (Agartala Division), and I do not find any reasonable argument for setting aside the punishment orders dated 15.4.2004, as issued by DPS, Agartala. Hence, nil modification/amendments are felt justified nor recommended to the existing punishment orders dated 15.4.2004, as issued by the DPS, Agartala. The appeal dated 08.5.2004 of Smt. Jharna Chakraborty, ex-GDS BPM, Rajarbag Branch Post Office does not find favour and hence, rejected.

A. Ghosh Dastidar
(A. GHOSH DASTIDAR)
Chief Postmaster General,
N.E. Circle, Shillong-793 001.

Smt. Jharna Chakraborty,
Ex-GDS BPM, Rajarbag EDBO
(Through DPS, Agartala)

Copy to:-

- 1-2. The Director Postal Services, Agartala Division, Agartala-799 001.
3. Office copy.

Arrested
Buring
(Advocate)

To
The member (personal)
Postal Service Board
Dak Bhavan.
Parliament street
New Delhi - 110001.

Through proper channel / Advance Copy.

Through the Director of postal Service, Agartala- 799001.

Sub : -- Petition against the punishment orders issued by DPS Agartala memo No- F1.4/IV / 98-99 / PT 1. dtd 15.04.04 and CPMG/ SH. Order NO- Staff / 109-4/ 2004 dtd 26.8.2004.

Respected Sir,

I have the honour to submit the following facts and circumstances against the punishment order issued vide DPS Agartala Memo NO- No- F1.4/IV / 98-99 / PT 1. dtd 15.04.04 and CPMG/ SH. Order NO- Staff / 109-4/ 2004 dtd 26.8.2004.

- a) that the order mentioned punishment order was issued removing me from the employment B.P.M Rajarbag B.O.
- b) the case was inquired in to by the I.O. and report was submitted to the disciplinary authority as found mentioned in the punishment order dtd - 15.04.04. at para 4.
- c) Before awarding the punishment the disciplinary authority did not follow the procedure as laid down under rule 15 (1-A) (1-B) in the CCS (CCA) rules 1965. copy of inquiry report was not forwarded to me by the disciplinary authority before awarded punishment depriving me the scope of submission of my representation.
- d) The disciplinary authority did not give any scope to me to submit my representation took into account such representation before awarding punishment to me.
- e) The punishment order reveals disagreement of the disciplinary authority with the inquiry report. but the reasons for such disagreement was not communicated to me before awarding the punishment to me depriving me from submission of my representation as laid down GOI'S instruction no 7 under rule 15 of CCS (CCA) rules 1965(G.I Deptt of per & TRG. O.M No- 11012/2/22/94-ESTT (A) dtd 27.11. 1995).
- f) The CPMG / SH (appellate authority) did not pay heed to the provisions of above rules while deciding the appeal under his order NO - staff/ 109-4/ 2004 dt.26.8.04. In view of above it is clear that the above mentioned punishment order and appellate authorities order was issued violating the above mentioned rules and provisions arbitrarily and as such the punishment order issued vide DPS/Agt. memo no F1.4/IV/98-99/PT1 Dtd 15.04.04. is not supported by rules in force and liable to be set aside .

It is, therefore, requested kindly to examine the case and arrange to issue necessary order on the matter.

Dated Rajarbag.
12/10/2004.

Yours faithfully

Jharna Chakrabarty

Smti Jharna chakrabarty.
Ex GDS, BPM.

*Checked
Gurup
(Advocate)*

513 54073

ENCLO : --

1. Memo no : -- F1.4/IV/98-99 PT.1 Dtd : -- 26.07.2000.to 31/07/2000.
2. Order No : -- F1.4/IV/98-99/ PT 1 Dtd 15th April 2004.
3. Memo No : -- Staff/109-4/ 2004 Dtd at Shillong 26.8.2004.
4. Brief of presenting officer Dtd 30.04.2002,
5. Brief of Defence Asst Dtd 20/5/2002.

Advanced copy to : -

To
The member (personal)
Postal service Board
Dak Bhavan
New Delhi - 110001.

Yours faithfully,

Dated Rajarbag.
12/10/2004.

gharna chakrabarty

Smt. Jharna Chakrabarty.
Ex G.D.S, B.P.M.
Rajarbag.

Affected
(Advocate)

Regd with A/D

ANNEXURE N

DEPARTMENT OF POSTS INDIA
O/o THE DIRECTOR POSTAL SERVICES
TRIPURA STATE AGARTALA -799001

No- FI-4/iv/98-99/ Part-I

Dated at Agartala the 25th May 2005.

TO,

Smt Jharna Chakraborty
Ex- GDS BPM Rajarbagh B.O.
A/o Udaipur Court S.O.
R.K.Pur H.O-799116

Sub- Revision petition dtd 14/10/04 case of Smt Jharna chakraborty ex-GDS, BPM, Rajarbagh B.O.

Kindly find herewith the Directorate letter no 20-01/2004-GDS dtd 5/5/2005 in original received through C.O/ SH letter no Staff HO-1/2004 dtd 13.5.05 on the captioned subject for disposal. Please acknowledge receipt thereof by the earliest Post positively for onwards transmission to the Directorate through CO/Shillong without any delay.

Encl- as above.

Dy Super Intendant of Pos
O/o the Director Postal Services
Tripura State Agartala -799001.

25/5/05

Affected
Stamp
(Advocate)

89

13 54273

Government of India
Ministry of Communications & IT
Department of Posts

Dak Bhawan,
Sansad Marg,
New Delhi-110 001

ORDER

No.20-01/2004-GDS

Dated: May 5, 2005

Smt. Jharna Chakraborty, ex-GDS BPM in Rajarbag BO in account with Udaipur Court Sub Post Office, Agartala, NE Circle has preferred a revision petition dated 14.10.2004 against the penalty of removal from employment imposed by the disciplinary authority, viz. DPS Agartala Division vide memo No. FI-4/TV/98-99/Pt.I, dated 15.4.2004 and upheld by the appellate authority, namely, Chief Postmaster General, N.E. Circle, Shillong vide memo No.Staff/109-4/2004, dated 26.8.2004.

2. The petitioner, Smt. Jharna Chakraborty, while working as GDS BPM, Rajarbag EDBO was proceeded against departmentally vide DPS Agartala memo No. FI-4/TV/98-99/Pt-I, dated 26.7.2000 on the charges that she failed to credit into government accounts an amount of Rs.15450/- being the amount of monthly deposits made by the depositors of 21 RD Accounts standing in the BO during the period from February 1998 to November 1998. The inquiry officer, vide his report dated 13.8.2002 held the charges as not proved beyond doubt. The disciplinary authority, DPS Agartala imposed the penalty of removal from employment vide memo dated 15.4.2004. In the said order, the disciplinary authority disagreed with the findings of the inquiry officer and discussed in detail how he held the charges as proved. But a copy of the inquiry officer's report along with note of disagreement was not sent to the petitioner to enable her to send her defence statement/representation. Her appeal dated 08.5.2004 preferred to the Chief PMG, NE Circle, Shillong was rejected by that authority vide memo dated 26.8.2004 as mentioned in para 1 above.

3. In her revision petition dated 14.10.2004 under consideration, the petitioner, Smt. Jharna Chakraborty has raised the main contention that reasonable opportunity was not

13 54273

given to her to defend herself in as much as the disciplinary authority had not sent her a copy of the Inquiry Officer's report along with reasons for disagreement with the findings of the Inquiry Officer.

4. I have carefully gone through the case. As the inquiry officer had held the charges as not proved beyond doubt, it was a mandatory requirement on the part of disciplinary authority to give reasons of his disagreement with the inquiry officer's report and communicate the same to the petitioner to enable her to submit defence statement. This was not done in this case denying the petitioner reasonable opportunity to defend herself. Though the disciplinary authority recorded his disagreement with the Inquiry Officer's report in the punishment order, the petitioner was not given opportunity to defend herself on those points. The petitioner's averment in this respect is tenable.

5. In exercise of powers conferred on me under rule 19 of the Department of Posts Gramin Dak Sevaks (Conduct & Employment) Rules, 2001, I hereby set aside the punishment of removal from employment imposed by the disciplinary authority, DPS Agartala Division vide memo No. FI-4/IV/98-99/Pt.I. dated 15.4.2004 and remit the case back to the disciplinary authority for de-novo proceedings from the stage of forwarding the note of disagreement on the Inquiry Officer's report, to the petitioner.

(G. Mohanakumar)
Member (P)

✓ Smt. Jharna Chakraborty,
ex-GDS BPM in Rajarbag BO,
in a/c with Udaipur Court Sub Post Office,
Agartala, NE Circle
(Through CPMG Shillong)

Member

Attended
Advocate

13 54273

Regd. with A/D

DEPARTMENT OF POSTS: INDIA
O/O THE DIRECTOR POSTAL SERVICES: TRIPURA STATE:
AGARTALA-799001

To
Smt. Jharna Chakrabarty,
Ex GDS BPM, Rajarbag B.O.,
A/O.Udaipur Court-799116,
South Tripura.

No. F1-4/IV/98-99/Part-I

Dated at Agartala, the 22.06.05

Sub:- Revision petition dated 14.10.2004- Case of Smt.
Jharna Chakrabarty, Ex-GDS BPM, Rajarbag B.O.

In continuation of this office letter of even No. dated 25.5.05, I am directed to forward a copy of I.O's report dated 13.8.2002 with a copy of "note of disagreement" On the report of I.O. recorded by the disciplinary authority i.e. Director Postal Services, Agartala Division, Agartala for your perusal and submission of your statement of defence in writing within 15 (fifteen) days from the date of receipt of this letter.

Dy. Superintendent,
O/O the D.P.S., Agartala-799001

- Encl:- 1) Note of disagreement recorded by the Disciplinary Authority
i. e. Director Postal Services, Agartala.
2. I.O's Report.

Attested
(Advocate)

Note of disagreement recorded by the Disciplinary Authority
i.e. Director of Postal Services, Tripura State, Agartala.

I have gone through the analysis and findings of the Inquiry Officer and my own conclusion are as follows:-

The I.O. has stated that the entire case is based on the written statements of the depositors. This is not only true but also the most definite and sacred testimony as it is the customers themselves and in sufficiently large numbers who have stated that deposits had been made by them into their RD accounts regularly. Their statements have to be seen as unbiased and true due to the fact that their signature appeared at the bottom of the statement. Even though some of them have stated that their signatures were obtained in blank papers none of them has stated that the allegation that amount deposited by them and alleged to have been misappropriated by the C.O. was incorrect. It would, therefore, be correct to presume that all the depositors who appeared in person before the I.O. had in fact made the deposits as mentioned in the charge sheet.

I cannot agree with the assessment of the I.O. that the written statement of the C.O. dated 01.12.98 cannot be treated as written statement in the true sense as it is addressed to no one and not in the proper format. I am not aware of any proper format for making such statements nor are statements necessarily to be addressed to any one in particular. What is important is whether the person making the statement has signed it in the presence of witnesses or not. On these accounts the statement holds good and should be treated as such.

The I.O. observes that no entries were found in the RD Pass books, B.O.R.D. Journal or the B.O. accounts book. No counterfoil of SB-103 in support of the deposit produced or specific dates of the deposits by the depositors or prosecution. If the charge of misappropriation is to be accepted against the charged official it should also be realized that the above mentioned documents and records are all in the custody of the BPM herself. There is none else to exercise any supervisions or check and balance in the office. The records could have been easily manipulated to help in any misappropriation but I definitely agree that non-availability of entries corresponding with the deposits are any proof of the guilt of the C.O. By the same token they can neither be any proof of her vindication.

The I.O. has pointed out the difference in the amount to be misappropriated by the C.O. on 01.12.98 of Rs. 16,200/- (Rupees sixteen thousand two hundred)only and the amount of Rs.15,450/- (Rupees fifteen thousand four hundred fifty)only mentioned in the charge sheet.

Surprisingly the I.O. has observed that misappropriation is a criminal offence which should be tried in the court of law under CRPC and not departmentally. I think the I.O. has over stepped his jurisdiction by making such a comment which is not relevant to the job assigned to him which was of establishing whether the charge is labeled against the C.O. stands proved or not.

In conclusion, the statements made by the depositors have to be taken at face value. And since neither the defence nor the depositors have proved that their statements are false is established that deposits were in fact made by them in the Rajarbag Branch Office. I can

Contd.....P-2

1354273

92

not understand why the charged official would so willingly make a payment of Rs. 20,000/- (Rupees twenty thousand) only if her intentions were honest Rs. 20,000/- (Rupees twenty thousand) only was not a small amount and for a GDS employee whose recruitment and service conditions are governed by specific rules of the Govt. to make such a payment to another person merely under threat of loss of job is not tenable. The statement of the C.O. dated 01.12.98 is the final nail in the coffin as far as establishing temporary misappropriation of Govt. funds is concerned.

1374

Hence by applying the principle of preponderance of probability I find the charges leveled against Smt. Jharna Chakrabarty, GDS BPM, Rajarbag B.O. proved."

SD/-

Director Postal Services,
Agartala-799001

*Attested
Gurup
Advocate*

5-13 54073



To
The Director Postal Service,
Tripura State, Agartala.

Subject :- Submission of Statement of defence against the proposed action.

Respected Sir,

With reference to your Office letter No.F.1-4/IV/98-99/Part-I dated 22-06-05 received by me on 27-06-05, I have the honour to submit my defence as under:-

That I have gone through the report of the I.O. and also the note of your disagreement on I.O.s report and found that it was very unkind to disagree with the finding of the I.O. who conducted the elaborate proceeding and thoroughly compared the the documentary evidence with depositor of the P.W.S.

Para-I It has been agreed that none of the depositor had stated alligation about their depositing money and misappropriation by the B.P.m was incorrect all though they all stated that their signature was obtained in blank paper. But the disciplinary authority over looked the fact that the depositors were not asked any such specific question by the prosecution the PW-I and others confirmed that signature of the depositors were obtained in blank paper and the depositor were not aware of the contact of the statement.

If the prosecution documents is not identified by the person purported to have written it becomes inadmissible. When the prosecution witnesses 1,2 and 3 stated that the depositors put their signature in blank paper and were, in fact written by PW-2 & PW-3 on on the direction and the PW-1 and when the depositors had also deposed as such stating that they did not known their contents there cannot be any reason why this should not be trusted by the Department.

Affected
Surya
Advocate

93

13 54273

Para- 2. The statement of the C.O. was obtained under duress and threat in presence of three mail members of the C.O. being an woman no other any thereafter even during departmental informations enquiry the C.O. denied the charges. The fact can be examined in it true perspective. No proof is available against the C.O. except this forced statement.

Para-3. The disciplinary authority expressed his suspension but there is no truth in it. It has been proved during inquiry that the pass books were not in the custody of the B.O. Had it been so, the prosecution could have produced seizures list. But there was no seizure list. The fact is that the O/S mail requested all the depositors to produce the pass books for verification and accordingly the depositors produced which the prosecution wheted. All the depositors who gave evidence before I.O. confirmed that the P.B.s were with them and not with the B.P.M.

Para- 4. Defferent amount shown by the prosecution clearly produces false hood. The PW-1 it Shri Tapas Nath who actually planned this conspiracy was in decision as to with such amount he could involve the B.P.M, and asked for Rs.20,000/- from her to deposit in the A/C office failing which she was threaned with dire consequence. But PW-1 had temporarily misappriated the amount given to him on 4-12-98 which deposited in R.K.Pur H.O. on 9-12-98.

Para-5 . No comments.

Para - 6. The Statement of the depositors are not official documents and they are required to be proved by the person who made them. In this instant case the depositors clearly disowned them the liability of proving the documents as true or false, under the circumstances, lie with the prosecution and not with the defence. Denial by the depositors who were prosecution witness were sufficient proof of falshood of alligation why the C.O. had to pay Rs.20,000/- was replanned against para-4.

P/3.

95

In presence of three male members a single woman had very little scope to revolt against SDI threatening with dire consequence of the forced statement of admission of quit has been desented as the 'final mail'. This alone indicate indicate that the prosecution planning my coffin perhaps to give benefit of the PW-3.

I therefore pray to your honour to be kind enough to give unbiased look into the extires affairs and exonerate me the charge.

C. R. Bhowmik
(C.R. Bhowmik)
D. Asstt.
Santir Bazar.

8/7/05

Yours faithfully,

Jharna Chakraborty

(Jharna Chakraborty) 8/7/05
Ex- GDS BPM,
Now under put off duty,
Rajabag, Udaipur.

Attested
[Signature]
Advocate

96

To
The Director of Postal Services,
Tripura, Agartala-799001.

Subject :- Prayer for order for payment of Put Off allowances for the period from 15-04-2004 in consequence of setting aside the removal order from service of Member (P), Postal Board, New Delhi.

Ref:- D.O. No. S case mark No. F1.4/IV/98-99 dated 15th April 2005.

Sir,

As per order No.20-01/2004-GDS dated May 3, 2005 received under your above letter dated 25th May, 2005 the penalty of removal from service imposed by the DPS, Agartala was set aside pending de-novo inquiry from the stage of supply of inquiry officer's report and disagreement thereon by the disciplinary authority.

As per Rules 10(3) of the CCS(CCA) Rules 1965 (as applicable to GDS employees, also in spirit) I deem to be continued to be Put Off duty from the date of removal from service i.e. 15-04-2004 and hence, I am entitled to put off allowances from that date.

You are, therefore, requested kindly to order payment of Put off allowance payable to me from the date of removal from service i.e. 15-04-2004.

Yours faithfully,

Jharna Chakraborty
(SMTI JHARNA CHAKRABORTY)
GDS BPM, Rajargagh.
(Now under Put off Duty)

Dated, 24-09-05

Attested
Gandhi
Advocate

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES : AGARTALA

No. FL4/IV/98-99/P1.1

Dated at Agartala, the 01/05/2006

It was proposed to take action under Rule 8 of P&T ED Agents (Conduct and Service Rules) now revised as Rule 10 of GDS (Conduct and Employment Rules) 2001 vide this office Memo of even No. dtd.15.02.01 against Smt Jharna Chakraborty, GDS BPM, Rajarbag EDBO. The charged official was put off duty vide SDIPOs, Radhakishorepur Memo No. A2/Rajarbag dtd.07.07.2000 and ratified vide this office Memo of even No. dtd.12.07.2000.

In the statement of article of charges framed against Smt Jharna Chakraborty, EDBPM, Rajarbag EDBO in account with Udaipur Court Sub Post Office it was stated that during the period from February 1998 to November 1998 Smt Jharna Chakraborty failed to credit an amount of Rs.15,450/- (Rupees fifteen thousand four hundred and fifty) only in Govt. account being the amount of monthly deposits made by 21 RD account holders of the office. Smt Jharna Chakraborty also accepted deposits from holders of RD Account Numbers 1115677, 1115101, 1115676, 1115598, 1114762, 1113924, 1116056, 1115231, 1113828, 1115493, 1113591, 1114995, 1115172, 1116160, 1115597, 1114763, 1114652, 1113254, 1114557, 1116057 & 1114236 without acknowledging the amount deposited by making entry in the passbooks or granting receipt in counterfoil of the deposit slip. The official was charged accordingly with the violation of provision under Rule 144 read with Rule 143(3)(a)(1) & Rule 131(3) of Rules of Branch Offices besides instructions contained in Rule 96 & Rule 101 (1) of Post Office Savings Bank Man Vol.I read with Rule 4 of Financial Hand Book Vol.I. The official was also charged with having failed to maintain absolute integrity and devotion to duty contravening the provision of Rule 17 of P&T ED Agents (Conduct and Service) Rules, 1964.

In her statement dtd.01.12.1998, the Charged Official had confessed to having accepted the above mentioned deposits and not having credited them to Govt. Account. However, in response to this office memo of even No. dtd.26.07.2000 the C.O. denied the charges and prayed to be heard in person in her representation dtd. nil received in this office on 14.08.2000. Accordingly vide this office memo of even No. dtd.23.08.2000 an enquiry was ordered to be held under Rule 8 of the Posts & Telegraph ED Agents (Service and Conduct) Rules 1964.

The enquiry was conducted and concluded by Sri P. Chakraborty and submitted to this office on 13.08.2002. The findings of the salient features of the enquiry report are as follows :

- (i) The case was detected by the SDI, R.K.Pur on a visit to Rajarbag Branch Office on 01.12.1998 where the C.O. was working as BPM. On examination of the RD Accounts, certain irregularities were detected and it was admitted by the C.O. that she had accepted deposits of the RD account holders but had not entered the same to Govt. account. The C.O. admitted to a sum of Rs.16,200/- (Rupees sixteen

Attended
Advocate

ousand five hundred) only having been collected by her and not been credited to the Govt. account.

In his deposition, the SDI, R.K.Pur stated before the I.O. that during his visit to Rajarbag B.O. on 01.12.1998, the C.O. produced 23 RD passbooks which were lying in her custody and prepared a list thereof with the amount misappropriated from these accounts amounting to Rs.16,200/- (Rupees sixteen thousand two hundred) only.

- (iii) The SDI further stated that it had come to his notice during the course of official work at Udaipur Court S.O. on 30.11.1998 that a large number of RD deposits were made in Rajarbag Branch Office on the last working day of every month with huge amount of default fines. Suspecting irregularities he visited Rajarbag Branch Post Office on 01.02.1998 to investigate the matter.
- (iv) After admitting to the misappropriation in her written statement, the C.O. made good the loss and subsequently deposited an amount of Rs.20,000/- (Rupees twenty thousand) only towards final settlement of the cases.
- (v) During cross examination the SDI R.K.Pur stated that the written statements exhibited as EX-56 to 22 were written by persons other than the depositors but in the presence of the depositors and with their consents. The contents of the same were read out to the depositors who signed the statements in presence of the C.O. and witness.
- (vi) The C.O. stated that on 30.11.1998 the SDI, R.K.Pur sent a verbal message to her through the EDDA / EDMC to collect all RD passbooks in which deposits were made by giving default fines. She didn't do so accordingly on 01.12.1998. The SDIPOs, R.K.Pur visited Rajarbag B.O. on 01.12.1998 and instructed C.O. to prepare a list of RD accounts mentioning the amount of RD deposits with default fines to update the passbooks. The C.O. did so accordingly. The C.O. further stated that on 02.12.1998, the SDI, R.K.Pur instructed her to go to Udaipur Court S.O. with Rs.20,000/- (Rupees twenty thousand) only and to credit the amount in the Govt. account. The C.O. further stated that Rs.20,000/- was handed over to the SDI, R.K.Pur on 04.12.1998 at Udaipur Court S.O.
- (vii) As per the C.O., transaction mentioned in Annexure 2 of the charge sheet but not accounted for as the depositors had not made the deposits of the said amounts. She collected the amount mentioned in the Annexure 2 of the charge sheet from the concerned depositors on 03.12.1998 and made good the rest of the amount and handed all of it to the SDI on 04.12.1998.
- (viii) The C.O. has referred the 18 written statements of RD depositors and stated that she was instructed by the SDI to write "facts are true" above her signature on the written statements under duress.

(3)

The CO also stated that the depositors were misled by the SDI in order to obtain their written statements by telling them that their deposits have been misappropriated by the BPM and they have to give statement in order for the amount to be deposited by them to be restored. In some cases, it was alleged by the CO that the signature of the depositors were obtained on plain paper and the statement was written subsequently either by the EDDA/EDMC or mail overseer on the instruction of the SDI.

(x) The CO denied all the charges stating instead that Rs 20,000/- (Rupees twenty thousand) only deposited under ACG-67 Receipt No.13 at Udaipur Court SO on 04.12.1998 was not personally deposited by her but was instead handed over to the SCI without any receipt. The CO further contains that in the charge sheet the dates on which the deposits were made in the accounts and how the deposits were made was not mentioned. The CO disputed the application of provisions of Post Office Savings Bank Man. Vol.1 of ED employees. Lastly, the CO stated that no pay-in-slips were produced to show that deposits were made and accepted by the CO. The BO was inspected by the DSP, Agartala on 17.09.1998 and 03.01.2000 but no such irregularity was detected.

The CO preferred an appeal before the appellate authority Chief PMG, NE Circle, Shillong who after due consideration of all aspects of the case has rejected the appeal and uphold the punishment order vide his No.Staff/109-4/2004 dated 26.08.2004.

Thereafter, the CO Smt. Jharna Chakraborty submitted a review petition to the member (personal) Postal Directorate, New Delhi on 14.10.04 which has been disposed by the DTE vide No.20-01/2004-GDS dated 5.5.2005 with direction to hold Denovo proceeding from stage of communicating I.O's report and disagreement notes of disciplinary authority. Accordingly the CO was supplied with the I.O's report and disagreement notes of disciplinary authority vide this office memo No.F-1-4/TV/98-99/ Part-1 dated 22.6.2005 which has been received by the CO on 27.6.2005. She was given another opportunity to defend herself giving 15(fifteen) days time. She represented in defence on 8.7.2005.

I have gone through the analysis and findings of the Inquiry Officer and the representation of the official in response of Denovo inquiry. I record my assessment as follows.

The IO has stated that the entire case is based on the written statements of the depositors. This is not only true but also the most definite and sacred testimony as it is the customers themselves and in sufficiently large numbers who have stated that deposits had been made by them into their RD accounts regularly. Their statement has to be seen as unbiased and true due to the fact that their signature appeared at the bottom of the statement. Even though some of them have stated that their signatures were obtained in blank papers none of them has stated that the allegation that amount deposited by them and alleged to have been misappropriated by the CO was incorrect. It would, therefore, be correct to presume that all the depositors who appeared in person before the IO has in fact made the deposits as mentioned in the charge sheet.

I cannot agree with the assessment of the IO that the written statement of the CO dated 01.12.98 cannot be treated as written statement in the true sense as it is addressed to no one and not in the proper format. I am not aware of any proper format for making such statements nor are statements necessarily to be addressed to any one in particular. What is important is whether the person making the statement has signed it in the presence of witnesses or not. On these counts the statement holds good and should be treated as authenticated.

100

(4)

The IO observes that no entries were found in the RD passbooks, BO D journal or the BO accounts book. NO counterfoil of SB-103 in support of the deposit produced or specific dates of the deposits by the depositors mentioned by either the depositors or prosecution. If the charge of misappropriation is to be accepted against the charged official it should also be realized that the above mentioned documents and records are all in the custody of the BPM herself. There is no one else to exercise any supervision or check and balance in the office. The records could have been easily manipulated to help in any misappropriation but I definitely agree that non-availability of entries corresponding with the deposits are any proof of the guilt of the CO. By the same token they can neither be any proof of her vindication.

The IO has pointed out the difference in the amount stated to be misappropriated by the CO on 01.12.98 of Rs 16,200/- (Rupees sixteen thousand two hundred) Only and the amount of Rs 15,450/- (Rupees fifteen thousand four hundred fifty) only mentioned in the charge sheet. Surprisingly the IO has observed that misappropriation is a criminal offence which should be tried in the court of law under CRPC and not departmentally I think the IO has overstepped his jurisdiction by making such a comment which is not relevant to the job assigned to him which was of establishing whether the charge is labeled against the CO stands proved or not.

In conclusion, the statements made by the depositors have to be taken at face value. And since neither the defense nor the depositors have proved that their statements are false it is established that deposits were in fact made by them in the Rajarbag Branch Office. I cannot understand why the charged official would so willingly make a payment of Rs 20,000/- (Rupees twenty thousand) only if her intentions were honest. Rs 20,000/- (Rupees twenty thousand) only was a small amount and for a GDS employee whose recruitment and service conditions are governed by specific rules of the Govt. to make such a payment to another person merely under threat of loss of job is not tenable. The statement of the CO dated 01.12.98 is the final nail in the coffin as far as establishing temporary misappropriation of Govt. funds is concerned.

9 Dec 98 66

Hence, by applying the principle of preponderance of probability I find the charges leveled against Smt Jharna Chakraborty, GDSBPM, Rajarbag BO proved.

ORDER

1. T.Mang Min Thang, Director Postal Services, Agartala Division do hereby punish Smt. Jharna Chakraborty GDSBPM, Rajarbag BO in account with Udaipur Court SO, under RKPur HO with removal from employment with immediate effect.

(T.Mang Min Thang)
Director Postal Services
Agartala- 799001

Copy to:
Regd. AD 1. Smt Jharna Chakraborty, Ex-BPM, Rajarbag BO in a/c with Udaipur Court SO.
Under Inv. 2. The Postmaster, R.K.Pur HO

-- (5) --

- Under Inv. 3. The SDIPOs, R.K.Pur Sub Dn., R.K.Pur -- 799120.
4. Estt. Br., O/O the D.P.S., Agartala.
5. Punishment file, O/O the D.P.S., Agartala.
6. Vig. File, O/O the D.P.S., Agartala.
7. Vig. File, O/O the Chief P.M.G., N.E. Circle, Shillong -- 793 001.
8. O/O
9. Space.

Director Postal Services
Tripura Sutta, Agartala - 786001

Attested
[Signature]
Advocate

To
The Postmaster General
N. E. Circle, Shillong - 793001.

Have a nice day

ANNEXURE

RADHAKISHOREPUR HO (799128) INDIA POST

SP-POD EE855350665 IN

Counter No:4, OP-Code:CHAND

To:THE POSTMASTER, N E CIRCLE

SHILLONG, PIN:793001

From:JHARNA CHAKRABORTY, RAJAR BAG RKPUR

Wt:215grams,

Ast:50.00, 16/06/2006, 11:22

Have a nice day

Sub:- Appeal against the order of removal from Service Passed by the
Director of Postal Service Agartala.

Ref:- DPS. Agartala's removal order No.F.1-4/IV/98-99/Pt-I dated,01-05-06.

Sir,

Most humbly and respectfully the appellant begs to submit this appeal for
favour of your kind and sympathetic orders please.

1. That the applicant, while functioning as the EDBPM, Rajarbagh BO in A/C /W Udaipur Court S.O. under Radhakishorpur H.O. was served with Charge Sheet under Rule - 8 of the P. & T. E.D. Agents (conduct & service) Rules, 1964 by the D.P.S. Agartala under his Memo No.F.1-4/IV/98/99/Pt-I dtd 26-07-2000/31-07-2000 on the grounds that the appellant failed to credit a Sum of Rs.15,450/- (Rupees fifteen thousand four hundred and fifty) only to the Govt A/C being the amounts of monthly deposit made against 21 R.D. A/Cs standing in the Rajarbagh B.O.
2. That the appellant denied the Charges and an Oral inquiry was held after which the inquiry officer submitted his report in which it was found that the charge against the appellant was not proved.
3. That the disciplinary authority did not agree with the findings of the I.O. but without assigning any reasons for such disagreement and without giving opportunity to represent the findings of the disciplinary authority the appellant was removal from service under his removal order No.F.1-4/IV/98-99/Pt-I dtd, Agartala 15-04-2004 passed by the then DPS, Agartala; Sri Harpreet Singh.
4. That, the order of removal was appealed against before the Chief Postmaster General. N.E. Circle, Shillong Sri A. Ghosh Dastidar who rejected the appeal on subjective assessment for not responding to his approaches vide his appellate order No-Staff/109-4/2004 dated Shillong.26-08-2004.
5. That being aggrieved by the appellate order the appellant preferred a revision petition to the Member (P), New Delhi which as disposed of by the Member(P) setting aside the order of removal and ordering de-novo inquiry from the stage of supplying of a copy of inquiry report furnishing of

Attested
[Signature]
Advocate

reasons of disagreement and affording opportunity to represent against the findings of the disciplinary authority, vide Directorate order No.20-01/2004-GDS dated may 5 2005.

6. That, the disciplinary authority i.e. the DPS, Agartala acting upon Directorate's order Put the appellant under deemed off duty from the date of removal from service and furnished the inquiry report of the I.O and note of dissentment and findings of the disciplinary authority and asked the appellant to represent against the findings of the disciplinary authority within 15 days vide his letter No.F.1-4/11/98-99/Pt-I dated 22-06-2005.
7. That, the appellant submitted her representation against the findings of the disciplinary authority raising all points of consideration but all fall flat in the ears of the disciplinary authority and passed the order of removal from service without taking into consideration of the representation vide his de-novo order of removal dtd 01-05-2006 and hence this appeal again.

GROUND OF APPEAL

8. that, the note of disagreement furnished by the disciplinary authority after revision any orders of the Member(P) is a false one which was not prepared during the incumbency of the then disciplinary authority Sri Harpreet Singh who passed the first removal order on 15-04-05; but during the incumbency of the current disciplinary authority Sri T. Mong Min Thang who passed the de-novo final order on 01-05-2006 in compliance with the order of the Member(P) moreover, the note of disagreement was not prepared even by the succeeding disciplinary authority as the note of disagreement is without date signature and name of the disciplinary authority. It is not understand what is the objection furnishing of date and name of the disciplinary authority who disagreed with the findings of the I.O. The note of disagreement is the reverse, finding of the disciplinary authority which should be signed by the disciplinary authority under his name & designation with date. It is a counter inquiry report submitted by the disciplinary authority. And hence there can not be any reason not to disclose the identity of disciplinary authority. It was prepared on receipt of the revision order of the Member(P) by which time, the then disciplinary authority Sri Harpreet Singh was succeeded by Sri T. Mong Min Thang for which the note of disagreement could not be prepared under the signature and date of Sri Harpreet Singh and hence a false and after thought note of disagreement was prepared without date signature & name just only to cover up the loopholes in the proceedings and to justify the order of removal it is a great for and inquired by the succeeding disciplinary authority on the strength of which the order of removal has been passed. In

104

reality, there was no note of disagreement prepared by the first disciplinary authority and hence; the first order of removal was passed on 15-04-05 without furnishing the I.O.S report and note of disagreement to the appellant to represent against the modus- operandi of the removal order clearly shows, that the order of removal was passed in total disregard of all canneries of and fairplay and in determination to put the appellant in distress and disability denying the constitutional right to live at life of dignity and respect in a human society but not like just above the animals.

9. That, the reasons put forwarded by the appellant in the representation against the note of disagreement was not considered at all before the de-novo final order was passed. Because, though an the de-novo removal order it has been said that the representation of the appellant was considered along with the analysis and findings of the I.O. it is transparent that the representation of the appellant was not at all discussed in the order. The order was passed just after discarding the findings of the I.O. and not considering the representation of the appellant. The disciplinary authority therefore, did not apply his mind to the full facts and documents before arriving at his decision to remove the appellant from service.
10. That, the disciplinary authority in the order it has been said that the charges against the appellant was proved under the principles of preponderance of probability the principle of preponderance of probability, though applicable in departmental proceedings, cannot be so freely applied. The principles of P.P. can be applied in areas where the guilt of the delinquent could not be established and he is enlarged on benefit of doubts. But when the I.O. finds that the charge against the delinquent could not be proved, the inference of the guilt can not be brought under the preponderance of probability ignoring the findings of a duly authorized inquiring Officer who held the inquiry on effective footing. If the report of I.O. can be so freely turned upside down, the whims of the disciplinary authority will have dipterous effects on the CCS(CCA) Rules, 1965 in respect of independence of fair play to be expected from an I.O. as her findings are reversed only when it go is in favour of the delinquent and not when it goes against the delinquent. Hence, the I.O.s inquiry report though not binding, is not equally fit for avoiding as it extracts the clue trails of the incident which leads to findings report to the disciplinary authority to be acted up on.

105

11. That there is no loss to the department sustained

In view of that has been submitted above, is humbly and earnestly prayed that you will kind enough to set a said the orders of removal from service passed by the D.P.S., Agartala after careful scrutiny of evidence and documents in the case and to re-instate the appellant in service, otherwise your humble appillant will be leadly prejudiced and will suffer irreparably.

Thanking you.

Rajarbog

Date- 16/6/06

Copy to the D.P.S. Agartala
for information to his
Memo No.- F1-4/IV/98-99/Pt-1
dt.01.05.06

Your faithfully

gharna chakraborty

(J. Chakraborty)

Ex.ED. BPM, (Appillant)

Rajarbog B.O.

A/o- Udaipur Court

Tripura, (South)

Attested
[Signature]
(Advocate)

Copy Enclosed L/W

1. Memo No.- F1-4/IV/98-99/Pt-I dt. 26.7.2000
31.7.2000
2. written brief by the co. dt 20/5/2002,
3. Removal order from DPS, Agt memo F1.4/iv/98/99/pt-I dt 15 th April 2004
4. Appeal C.P.M.G. memo No-F1.4/iv/98-99/ptl dtd 15/4/04
5. Reject order CPMG memo No staff/109-4/2004 dtd 26/8/2004,
6. Member (p) New Delhi , Dps memo No - F1-4/iv/98-99 pt I dt 15.4.04 and
CPMG/SH order No-staff/109-4/2004 dtd 26/8/2004
7. Member (p) order No-20-01/2004-GDS dtd may 5. 2005
8. Memo No - F1-4/iv/98-99/part-I dtd 25may/2005
9. Memo No F1-iv/98-99/pt-I dtd 21Feb -2006
10. I.O. report dt 13/8/2002
11. Memo No -F1-4/IV/98-99/part-I dtd 22/6/05
12. Statement of defiance 8.7.2005
13. Order Removal from service memo No-F1.4/IV/98-99/Pt.I dtd 01.05.2006.

Rajabag

Date- 15/6/06

Your faithfully

J. Chakraborty

(J. Chakraborty)

Ex.ED. BPM, (Appellant)

Rajabag BO

A/o- Udaipur Court

Tripura, (South)

*Checked
G. Singh
(Advocate)*

Director Postal Services
Tripura State, Agartala - 790001

107

Regd.
AD

O/O the

NO. FI-4/IV/98-99/Pt. 1 Dt. at Agartala, 13-12-06

TO

Smt. Jharna Chakraborty
ex - EDBPM, Rajbari B.O.
via - Udairpore Court S.O.
South Tripura.

Subj: Appeal.

The copy of order of the ~~ex~~ Chief P.M.G.,
N.E. Circle, Shillong bearing No. -
Shillong/109-13/2006 dt. 6-12-06 is
forwarded herewith to you for your
information.

Encls. As Stated
above.

13/12
Deputy Superintendent
O/o, the Director Postal Services
Tripura State, Agartala - 790001.

Affected
Student
Advocate

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL N. E. CIRCLE: SHILLONG-793 001.

Memo No.Staff/109-13/2006

Dated at Shillong, the 6-12-2006.

This is regarding the appeal dated 16-6-2006, preferred by Smti Jharna Chakraborty, ex-EDBPM, Rajarbagh B.O., Agartala Division against the order of D.P.S., Agartala Division issued vide Memo No.F.1-4/ IV /98-99/Pt-I dated 1-5-2006, under which the punishment of removal from Service, was imposed on the official.

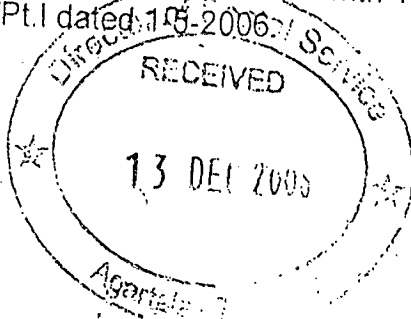
2. **Charges:** Statement of charges issued under letter No.FI-4/ IV /98-99/Pt-I dated 26/31-7-2000 shows that-
- (i) that she worked in Rajarbagh B.O. from Feb/98 to Nov/98,
 - (ii) that during that period, she committed misappropriation of Rs.16,200/- (Rupees sixteen thousand two hundred) only by accepting montly deposits in respect of several R.D. accounts by making entries in the pass books only without corresponding entries to other documents,
 - (iii) that in her statement dated 1-12-98 she confessed that she had accepted the above mentioned deposits but did not credit it to the government account.

3. **The case in brief :**
Smti Jharna Chakraborty, while working as EDBPM, Rajarbagh B.O., from February'98 to November'98 misappropriated an amount of Rs.16,200/- (Rupees sixteen thousand two hundred) only by accepting montly deposits in respect of several R.D. accounts by making entries in the pass books only without corresponding entries to other documents. However, in response to the charge sheet issued by D.P.S., Agartala under his letter No.FI-4/ IV /98-99/Pt-I dated 26/31-7-2000, the charged official denied the charges and prayed to be heard in person vide her representation dated nil which was received in DPS, Agartala office on 14-8-2000. Enquiry was conducted and concluded and during the course of the examination of the RD accounts, certain irregularities were detected. The charged official in her statement admitted that she had misappropriated deposits amounting to Rs.16,200/- (sixteen thousand two hundred) only. After admitting to the misappropriation in a written statement, the charged official has credited Rs.20,000/- only on 4-12-98, towards a settlement of the defrauded amounts.

Thereafter, disciplinary authority concluded the case by awarding punishment of removal from Service issued vide his Memo No.F1-4/ IV /98-99/Pt-I dated 15-4-2004 and the decision of the disciplinary authority was upheld by the appellate authority namely, the Chief PMG, Shillong vide his Memo No.Staff/109-4/2004 dated 26-8-2004. On her revision petition dated 14-10-2004, Directorate has disposed of the revision petition under order No.20-1/2004-GDS dated 5-5-2005 with observation that the disciplinary authority while disagreeing with the report of the inquiry officer did not endorsed copy of the Inquiry report alongwith disagreement note on the I.O's report to the charged official for her defence and directed for Denovo proceedings from the stage of forwarding disagreement note on the I.O's report.

After denovo proceedings from the stage of forwarding disagreement note on the I.O's report, disciplinary authority has finalized the case with 'removal from service' passed under his letter No.FI.4/IV/98-99/Pt.I dated 16-6-2006.

Hence, the appeal.

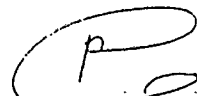


Handwritten signature: A.H. Chakraborty
Handwritten text: Advocate

4. The official has put forth the following points in her appeal -

- (i) that the note of disagreement furnished by the disciplinary authority after revision orders of Directorate was a false one and which was not prepared by the then disciplinary authority but during the incumbency of the current disciplinary authority.
- (ii) that the reasons put forward by the appellant in the representation against the note of disagreement was not considered at all.
- (iii) that the punishment order be set aside.

5. I have gone through the appeal alongwith all related documents. It is observed that the disciplinary authority while disagreeing with the IO's findings has given sound and well argued out reasons for doing so. Officials working in the post office are custodians of public money. They cannot misappropriate public money and destroy the trust and faith of the public in the post office and thus ruin the post office name and reputation. The petitioner had initially admitted her dereliction of duty and subsequently realizing the seriousness of the matter withdrew her initial admission. The punishment awarded therefore needs no revision and hence the appeal is rejected.

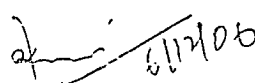


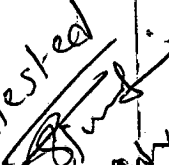
(P. Gopinath)

Chief Postmaster General
N.E. Circle, Shillong-793001.

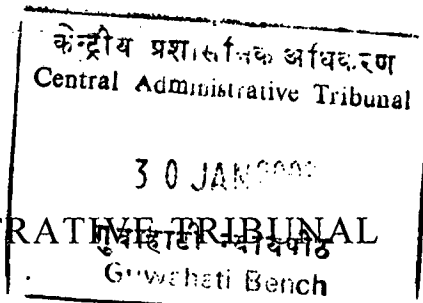
Copy to:-

1. Smti Jharna Chakraborty, ex-EDBPM, Rajarbagh B.O. (through the D.P.S., Agartala Division).
2. The D.P.S., Agartala Division, Agartala.
3. Spare.


for Chief Postmaster General.
N.E. Circle, Shillong- 793 001.

Attested

Advocate

-84-



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O.A. No. 169 of 2007

Smt Jharna Chakraborty

..... Applicant

— Versus —

Union of India & Ors.

..... Respondents

The written statement filed on behalf of
the Respondents above named.

WRITTEN STATEMENT OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH :

1. That with regard to the statement made in
paragraph 1 of the instant application the Respondents have no
comment.

2. That with regard to the statement made in
paragraph 2 and 3 of the instant application the Respondents
beg to offer no comment.

Filed by

110

Director Postal Services,
Tripura State, Agartala-799001

Through Gaurang Prasad
28.01.08 Sr. Secy

R
Jm-28/1
Jharna

30 JAN 2000

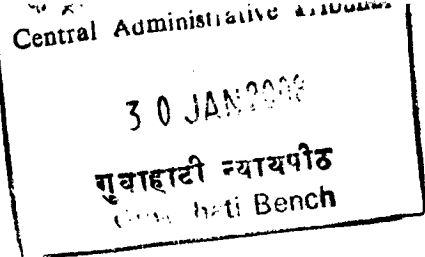
गुवाहाटी न्यायाधीश

3. That with regard to the statement made in paragraph 4.1 of the instant application the Respondents have no comment.

4. That with regard to the statement made in paragraph 4.2 of the instant application the Respondents beg to state that the contentions are false, baseless and incorrect. The Respondents further beg to state that the applicant was working as EDBPM in Rajarbag B.O. under Udaipur Court S.O. since 1988, but her activities being found doubtful, necessary verification of SB/RD accounts kept under her possession took place by the then SDIPOs, Shri Tapas Kumar Nath and subsequently alleged misappropriation of Govt money to the tune of Rs.15,450/- was detected.

5. That with regard to the statement made in paragraph 4.3 of the instant application the Respondents beg to state that it was reported to the SDIPOs, R.K.Pur that Smt Jharna Chakraborty, EDBPM, Rajarbag B.O. was in a habit not to credit the deposits made by the members of public in the Govt. account in time. SDIPOs, R.K.Pur collected some passbooks from the public and tallied the balance recorded in the account office of Rajarbag B.O. i.e. Udaipur Court S.O. In some cases the discrepancy found and the matter was reported to the Divisional Head i.e. Director Postal Services, Agartala. The SDIPOs, R.K.Pur was then instructed by the Divisional

Director Postal Services,
Tripura State, Agartala-799001

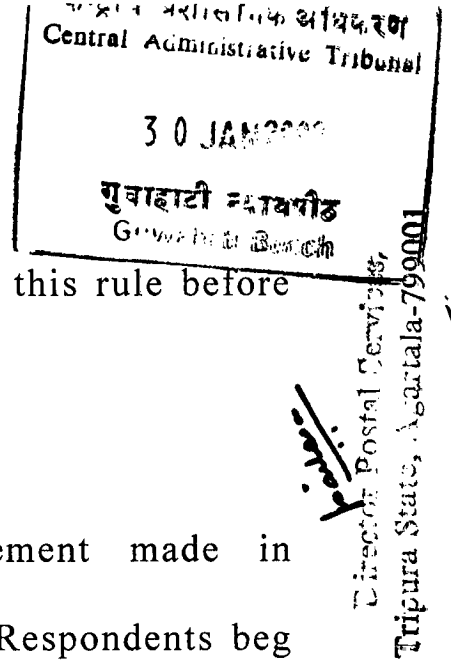


Authority to conduct a thorough enquiry by collecting the passbooks from the public. In course of thorough enquiry it was revealed that in many cases the amount as appeared in the passbook of the depositors differs with that shown in the office record. In total, a difference of Rs.15,450/- could be detected involving 21 nos. of RD Accounts. The BPM was asked to deposit a sum of Rs.20,000/- being the defrauded amount including accrued and penal interest. The said amount was then credited in the Govt. account by Smt Jharna Chakraborty, EDBPM, Rajarbag BO.

Director Postal Services,
Tripura State, Agartala-799001 // 2

6. That with regard to the statement made in paragraph 4.4 of the instant application the Respondents beg to state that the put off duty order was issued as departmental enquiry was contemplated and the same could not yield any fruitful result in presence of the alleged official in her official position.

7. That with regard to the statement made in paragraph 4.5 of the instant application the Respondents beg to state that charge sheet was issued to her by the D.P.S., Agartala on 15/2/2001 under Rule 8 of P&T ED Agents (Conduct and Service) Rules, 1964 which has now been revised as Rule 10 of GDS (Conduct and Employment) Rules 2001, with memorandum of charges as prima facie allegation of misappropriation of Govt. money was established and the



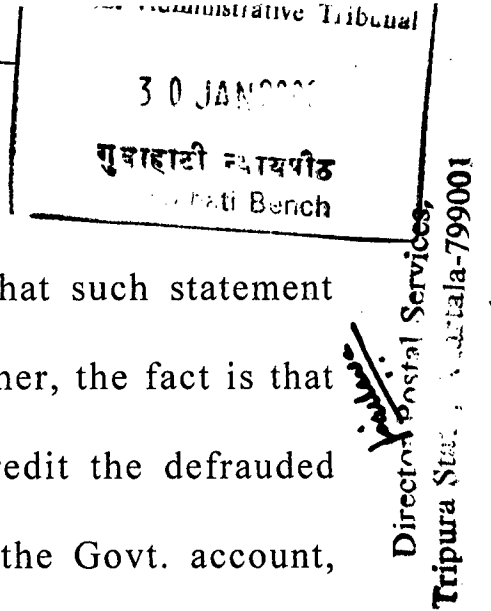
department decided to hold an enquiry under this rule before imposing any penalty.

8. That with regard to the statement made in paragraph 4.6 of the instant application the Respondents beg to state that the applicant attended the hearing in person.

9. That with regard to the statement made in paragraph 4.7 of the instant application the Respondents beg to state that Sri Pranab Chakraborty, the then ASPOs, Agartala South was appointed as Inquiry Officer (IO) to enquire into the charges.

10. That with regard to the statement made in paragraph 4.8 of the instant application the Respondents beg to state that when the fact of misappropriation of Govt. money by the EDBPM came to the knowledge of public, a number of people approached the authority to verify their balances; and out of them those who became victim of the said EDBPM, recorded their statement against the BPM and the proceeding proceeded as per ruling on the subject.

11. That with regard to the statement made in paragraph 4.9 of the instant application the Respondents beg to state that it is not true that the confirmation of the BPM by writing "facts are true" on the written statements of the



depositors were obtained by SDI stating that such statement were to be written to keep her service. Rather, the fact is that the BPM was told that if she does not credit the defrauded amount along with interest voluntarily in the Govt. account, the matter would be reported to the police. Thereafter the amount of Rs.20000/- was credited into the Govt. account.

12. That with regard to the statement made in paragraph 4.10 of the instant application the Respondents beg to state that the averment is totally false, motivated and fabricated. No document was obtained by the then SDIPOs, Sri Tapas Kr Nath by using force, duress or threats. The depositors who were the victims of the case, used to deposit money directly to the BPM and their passbooks used to be retained by the BPM. The depositors used to deposit money in good faith for which they did not demand any counterfoil. But the BPM did not credit the amount in the Govt. account nor did she enter the transaction in the passbooks lying with her on the date of transaction. But the department cannot deny its duty towards the valued customers merely because of the reason that they did not obtain any counterfoil.

13. That with regard to the statement made in paragraph 4.11 of the instant application the Respondents beg to state that the allegations brought against the BPM was basically on the statement of the depositors and the

30 JAN 2006

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

Director of Postal Services,
Tripura Sahitya Akademi, Agartala-799001

allegations were also proved when a number of passbooks were found in the custody of the BPM. The Disciplinary Authority justified the allegation brought against the BPM before issuing the punishment order issued vide memo no. F1-4/98-99/Pt.I dtd.1/5/2006.

14. That with regard to the statement made in paragraph 4.12 of the instant application the Respondents beg to state that the ground on which the Disciplinary Authority awarded the punishment is clearly mentioned in the punishment order.

15. That with regard to the statement made in paragraph 4.13 of the instant application the Respondents have no comment.

16. That with regard to the statement made in paragraph 4.14 of the instant application the Respondents beg to state that the Postal Directorate sent the case back not because of any merit on the part of Smt Jharna Chakraborty, but to avoid mere procedural lapses.

17. That with regard to the statement made in paragraph 4.15 of the instant application the Respondents have no comment.

Director Postal Services,
Tripura, Agartala-799001

116

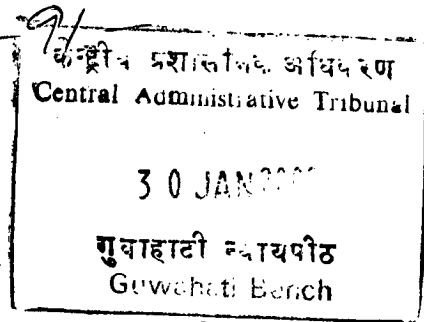
18. That with regard to the statement made in paragraph 4.16 of the instant application the Respondents beg to state that it is a fact that the C.O. (Charged Official) misappropriated Govt. money and defamed the Postal Department. The members of public submitted their statement against the BPM voluntarily.

19. That with regard to the statement made in paragraph 4.17, 4.18, 4.19, 4.20 & 4.21 of the instant application the Respondents have no comment.

20. That with regard to the statement made in paragraph 5 of the instant application the Respondents beg to state that the grounds set forth in the instant application filed by the applicant have not good grounds and also not tenable in the eye of law and therefore the instant application is liable to be dismissed.

21. That the respondents beg to submit that the instant application has no merit and as such the same is liable to be dismissed.

VERIFICATION



113
Director Postal Services,
Tripura State, Agartala-799001

I, Shri Joseph Lalrinsailova, S/O Shri Lalenglina, aged 35 years, Director Postal Services, Agartala and competent officer of the answering respondents, do hereby verify that the statement made in paras 4, 5, 10 to 12 & 18 are true to my knowledge and those made in paras 6 to 9, 13, 14 & 16 being matters of record are true to my information derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification on this 22nd day of January, 2008 at Agartala.

Joseph Lalrinsailova
(Joseph Lalrinsailova)

Director Postal Services

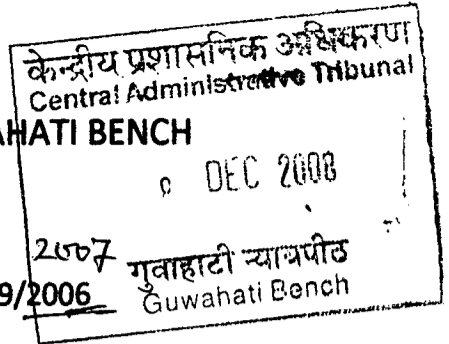
Agartala - 799 001.

Director Postal Services,
Tripura State, Agartala-799001

92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

GUWAHATI



O.A.No 169/2006

Smt Jharna Chakraborty

-V-

U.O.I. & Ors

Rejoinder to the written statement filed by the respondents.

The applicant most respectfully begs to state as under.

1. That the applicant has gone through the W.S. filed by the respondents and understood the contents thereof.
2. That in reply to the statements made in paras 1 to 5 of the WS applicant begs to state that she has not misappropriated any public money nor she kept the pass books of the defaulting depositors in her custody. She collected the pass books of the defaulting depositors only on the verbal instructions of than Sub Divisional Inspector (SDI in short) Sri Tapas Kumar Nath on 30/11/08 i.e. a day prior to the day of inspection by the SDI. Applicant subsequently collected the deposits with default fines from the depositors on 2/11/98 and 3/11/98 and handed over the same with her own money to the SDI Sri Tapas Kumar Nath as per his instructions. It may be mentioned here that SDI without verifying the actual amount to be collected from the depositors in order to up date there pass books coerced the applicant to deposit Rs 20,000 (twenty Thousand) though the applicant was not in default. SDI acted on the basis of alleged verbal complaint of some persons about non depositing which applicant denied. SDI also threatened the applicant to terminate her service if she would not deposited the money and give it in writing 'facts are true' in the blank papers where SDI collected signatures from the depositors. The fact of coercion to deposite the money and give written statements has been done violating the condition of services and in breach of contract of service This has caused undeserved enrichment of the office and purpose of the SDI was his personal gain in his own service.
3. That in reply to the statements made in para 6 to 16 of the WS applicant beg to state that the Disciplinary Authority while imposing punishment did not consider this aspect stated in para 2 above and also have not considered the fact that the written statements of the depositors were written by persons other than the depositors of

Received
Guwahati Bench
8.12.08

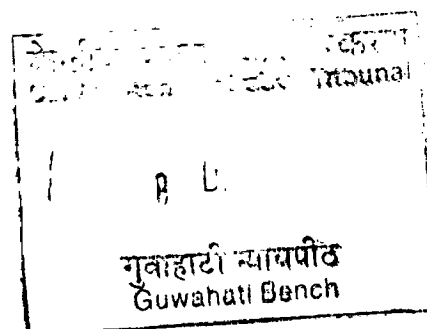
Filed by the Applicant...
Through S. N. Tumbal
Advocate Date...

Jharna Chakraborty

93-

which depositors were unaware. Moreover the depositors gave evidence that they were not aware about the contents of the WS and also gave it in writing that the pass books were with them and not with the applicant as alleged. This proves that there was no chance for the applicant to accept deposits without making entry. Actual fact was that depositors were in the habit of making deposits by giving default fines i.e. after the due dates. Applicant collected the money along with default fines from the depositors only on the instruction of the SDI on 2/12/98 & 3/2/98 which was subsequently handed over to the SDI on 4/12/98. It may be mentioned here that in the regular inspection during the period on which misappropriation was alleged by the Dy. Superintendent of P Os, Agartala, i.e. between 1998 to 3/1/2001 there was no irregularity found. Considering the fact IO came to the conclusion that the charges against the applicant were not proved. Moreover there was difference in the amount of the money alleged to be misappropriated by the applicant as alleged by the SDI and that mentioned in the Charge Sheet. These facts were completely ignored by the DA while imposing punishment and imposed the penalty without providing the copy of the Inquiry Report and the Note of Disagreement to the applicant and also by the Appellate Authority while disposing the appeal. This caused prejudice to the applicant and deprived the applicant of his right to defend. Subsequently with the intervention of the Member (Personnel) applicant was provided the above two documents to which applicant submitted her defence. It is stated that in the nature of the case when DA disagrees with the IO's report oral hearing should be given which was denied. The Inquiry report was the result of oral hearing, if that report was to be neglected this could be done by giving personal oral hearing under the principles of natural justice. One basic principle of the principle of Natural Justice is that one who hears should decide. DA passed stereotyped order as earlier one in order to fortify their repeated wrongs. The entire facts narrated above shows the non application of mind on the part of the DA and Appellate Authority. Appellate Authority tried its best to fortify the wrongs committed by the DA instead of giving justice to the applicant. The statements made in para 10 of the WS is vague and abstract. In reality there was no such allegation, these are alleged only to suppress the mischief on the part of the respondents. Respondents have not specified any name.

4. That in reply to the statements made in para 17 to 21 of the WS applicant begs to state that the applicant has not misappropriated any Govt. Money as alleged. Moreover the public statements of which the respondents have mentioned were written by some other person and the depositors/members of public were not aware of its contents. Under the facts and circumstances of the case the O.A. deserve to be allowed with costs.

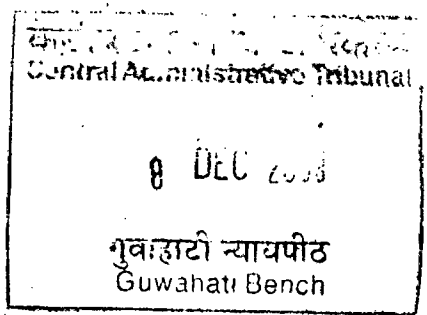


119

Sharmachakra Nayak

94

120



VERIFICATION

I, Smt Jharna Chakraborty, wife of Sri Babul Ch Barman, aged about 53 years, Ex BPM Rajorbag, P.O. Rajorbag, Radha Kishorpur, Dist Udaypur Court, Shouth Tripura do hereby solemnly affirm and verify that the statement made in paragraph 1 to 4 are true to my knowledge and that I have not suppressed any material facts.

And, I sign this verification on this 25th day of Nov 2008 at

Place:-

Dated:- 25.11.08

Jharna Ch akrobarty

Signature of the applicant.