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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

ORIGINAL APPLICATION NO. 1073 OF 2005

JABALPUR, THIS THE 29th DAY OF SEPTEMBER, 2006

HON'BLE DR. G.C. SRIVASTAVA, VICE CHAIRMAN
HON'BLE MR. A.K. GAUR, JUDICIAL MEMBER

Ashok Joshi, S/o. Shri N.K. Joshi,
aged about 32 years,
working as Postal Assistant,
Office of G.P.O., Mhow (MP)-453441,
R/o. H. No. 100, School Ground,
New Colony, Koderiya,
Mhow (MP) – 453 441.

..... **Applicant**

(By Advocate – Shri I.H. Khan)

Versus

Union of India, through –

1. The Secretary,
Government of India,
Ministry of Communication,
Department of Postal Services,
New Delhi.
2. The Director of Postal Services,
C/o. Post Master General,
Indore Region, Indore (MP).
3. The Chief Post Master General,
M.P. Circle, Bhopal (MP).
4. The Supdt. of Post Offices,
Moffusil Division, Indore (MP).

..... **Respondents**

(By Advocate – Shri V. Saran)

ORDER

By Mr. A.K. Gaur, Judicial Member –

By means of the aforesaid Original Application the applicant has sought the following main relief:

"(a) Punishment order passed by the respondent No. 4 (enclosed at Annexure-V) may please be quashed and be set aside,

(b) Order dated 5 July 2004, passed by the appellate authority (At A-IX) may please be quashed and set aside,

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(c) Amount so far recovered from the applicant may please be refunded back to him,

(d) Second Punishment of reduction in scale of pay which comes to a loss of Rs. 400/- per month for three years, may please be set aside and the salary of applicant may please be revised,

(e) Unpaid salary for the period as mentioned at Para 6(f) may please paid to the applicant."

2. The brief facts of the case are that at the time when the applicant was posted at the Sub Post Office of Pitampur in the capacity of Postal Assistant he was found negligent in performance in his duty. The allegation against him was that he has not observed the correctness of the signature of a customer who was holder of postal saving bank account No. 11201902, dated 15.4.2000 and upon his application for withdrawal of money, applicant made a mistake of making a payment of Rs. 4,000/- which is the 50% of the total deposit of Rs. 8,000/- in that particular account. Thus, the act of the applicant amounted to misconduct and was violation of Rule 111 (4) of the Saving Bank Rules of Postal Department. This act of the applicant also amounted to be an offence of misconduct under CCS (Conduct) Rules, 1964. A copy of the charge sheet has been annexed as Annexure A-1. The reply to the charge sheet was filed by the applicant and he denied the charges framed against him. An enquiry was ordered by the respondent No. 4 vide order dated 20.10.2002 (Annexure A-3). The proceedings of the departmental enquiry took long time of about two years after the issue of the charge sheet. The enquiry was concluded on 20.1.2003 and copy of the enquiry report was given to the applicant on 24.1.2003, wherein it was clearly specified that the charges were proved against the applicant. Vide office order dated 24.3.2003 the punishment order was passed by the respondent No. 4 against the applicant. The following punishments were imposed upon the applicant a) recovery of Rs. 4,000/- and b) reduction in the scale of pay from the stage of Rs. 4400/- to Rs. 4000/- for a period of three years (without cumulative effect). Copy of the said order has been filed as Annexure A-5 in the Original Application. The grievance of the applicant is also that he was placed under suspension but 50% of his regular salary for the period from 23.2.2001 to 22.10.2001 was not paid to him so far even after revocation of the suspension on 22.10.2001. ^{being} ~~having~~ aggrieved by the order of punishment the applicant preferred a departmental appeal addressed to the Post Master General, Indore region, Indore on 9.5.2003. A copy of the departmental appeal is filed as Annexure A-6. The appellate authority after going through the appeal of the applicant rejected the same by order dated 18.11.2003 (Annexure A-

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7). The applicant has also submitted that he being aggrieved by the order dated 18.11.2003 again preferred an appeal/revision to the Chief Post Master, M.P. Circle, Bhopal on 20.1.2004. However, on this appeal/revision orders were passed by the respondent No. 2 on 5.7.2004 rejecting the appeal/revision of the applicant (Annexure A-9).

3. By filing detailed reply the allegations contained in the Original Application were denied by the respondents. It has been submitted on behalf of the applicant that while working as Postal Assistant, on 15.4.2000 the applicant allowed withdrawal from RD Account No. 11201902 against the mandatory requirement under Rule 113(4) read with Rule 113(1) of the Saving Bank Volume-1. According to the respondents as per rules no withdrawal can be permitted as the account was discontinued and had less than 12 installments deposited therein. Copy of the rules is filed as Annexure R-1. According to the respondents as per the existing rules the applicant was required to compare the signature of the depositor with the specimen on record, but the applicant did not compare the signatures from the specimen on record also. In the present case the depositor has also denied to have made such a withdrawal and put his signature on the withdrawal form. In view of the serious irregularities committed by the applicant he was proceeded under Rule 14 of the CCS (CCA) Rules, 1965. The departmental enquiry was conducted against him and the applicant was found guilty. The competent authority accordingly awarded the punishment of recovery of Rs. 4,000/- from the pay of the applicant and also awarded punishment of reduction in the time scale of pay from Rs. 4,400/- to Rs. 4,000/- without cumulative effect (Annexure A-5) vide order dated 24.3.2003. By filing the aforesaid Original Application the applicant has assailed the irregularity and propriety of the order dated 24.3.2003 on various grounds. It is submitted on behalf of the respondents that the applicant has failed to discharge his duties in accordance with the existing provisions of law and because of his gross negligence in performance of his duties, no payment was made to the real depositor and he was deprived of his legitimate claim. On 13.1.2005 this Tribunal has decided OA No. 160/2004 relating to Shri Vishwas Nimgaonkar and OA No. 194/2004 of Shri Bharat Pagare vide common order and observed that the applicants were negligent towards their duties and dismissed the Original Applications. According to the respondent this case is also similar and identical to the aforesaid dismissed cases. As regards regularization of the period of suspension the respondent had clearly stated that the regularization of period of

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suspension would be done in due course by the competent authority on receipt of the representation from the applicant. It is true that the suspension of the applicant was revoked but it does not mean that the applicant was fully exonerated from the charges. Hence, this Original Application deserves to be dismissed.

4. The learned counsel for the applicant has also filed rejoinder denying the allegations/contentions in the reply filed on behalf of the respondents.

5. We have heard Shri I.H. Khan, counsel for the applicant and Shri V. Saran, Sr. Central Govt. Standing counsel appearing for the respondents. We have also carefully seen the record and found that the applicant has failed to compare the specimen signature of the depositor on SB-7 with that on the record. The depositor has also denied to have made the withdrawal and disowned his signature on SB-7 (withdrawal form). In view of the serious irregularities committed by the applicant he was proceeded under Rule 14 of the CCS (CCA) Rules, 1965 and on completion of departmental enquiry and allegations having been proved the applicant was awarded the above mentioned punishment. The contention of the applicant that withdrawal was allowed after due formalities is not sustainable. The applicant was required to carry out the prescribed checks before allowing the withdrawal even when the passbook was produced at the time of transaction. The passbook cannot be a ^{basis for} ~~base of~~ identification. There were less than 12 installments deposited in the account, as such he should have not allowed the withdrawal before completing one year from the date of opening of the account. Account No. 11201902 was opened on 25.2.1999 with denomination of Rs. 1,500/- per month and till December, 1999 eleven installments were deposited in the account and balance was Rs. 16,500/-. At the time of making half withdrawal on 15.4.2000, there were no deposit from January, 2000 to March, 2000 thus half withdrawal of Rs. 8,000/- allowed on 15.4.2000 was irregular and against the rules. According to the applicant the enquiry officer failed to appreciate that the withdrawal was allowed by the S.P.M. who passed the order for payment of Rs. 8,000/-. It is also submitted on behalf of the applicant that the SPM also signed below the signature of the depositor in token of having compared the signature of depositor with that available in the specimen book. It is urged on behalf of the applicant that the findings of the enquiry officer for non comparing the signature by the applicant is totally faulted. We have carefully considered the submissions advanced by the applicant and we are of the considered view that the plea taken by the applicant is not at all sustainable. The contributory negligence on the part of the other officers

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will be examined separately but it cannot reduce/nullify the gravity of the conduct of the applicant. The applicant has admitted the fault. In this case though the applicant himself did not commit any fraud but apparently he was negligent towards his duties. We have perused the impugned orders and find that these are detailed, speaking and reasoned orders.

6. Considering all the facts and circumstances of case, we are of the opinion that the applicant has failed to prove his case and this Original Application is liable to be dismissed as having no merits. Accordingly, the same is dismissed. No order as to costs.

A.K. Gaur 29.9.06
(A.K. Gaur)
Judicial Member

G.C. Srivastava
(Dr. G.C. Srivastava)
Vice Chairman

"SA"

पृष्ठसंख्या सं ओ/का.....जयलपुर, दि.....

नतिनिधि जारी दिनांक:-

- (1) सचिव, उच्च न्यायालय एवं एडमिनिस्ट्रेशन, जयलपुर
- (2) अवरुक्त डी/डी/सी/का.....के कार्यालय
- (3) फायरिंग डी/डी/सी/का.....के कार्यालय
- (4) मजदूर, कोर्ट, जयलपुर, जयलपुर न्यायालय
राज्य एवं आचार्य के कार्यालय

I. H. Khan D.W.
Mhow

V. J. J. J.
D.W. Indore

Issued

on 3/10/06

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