

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT SITTING AT INDORE

Original Application No. 160 of 2004
Original Application No. 194 of 2004

Indore, this the 13th day of January, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

1. Original Application No. 160 of 2004 -

Vishwas Nimgaonkar, S/o. Gajanan,
aged about 29 years, Office Assistant,
Office of SPO's Indore, Mtl Division,
Indore - 452 001. ... Applicant

2. Original Application No. 194 of 2004 -

Bharat Kumar Pagar, S/o. late Shri
Bhanudas Pagar, aged about 32 years,
Postal Asstt. Rau, Distt. Indore - 452001 ... Applicant
(By Advocate - Shri S.K. Nagpal in both the QAs)

V e r s u s

1. Union of India, through : the
Secretary, Government of India,
Ministry of Communication, Department
of Post, Dak Bhawan, Sansad Marg,
New Delhi.
2. Chief Post Master General, M.P.
Circle, Bhopal - 462 012.
3. Director, Postal Service, Indore
Region, Indore.
4. Suptd. of Post Offices, Indore
Mtl Division, Indore. ... Respondents

(By Advocate - Shri S.A. Dharmadhikari in both the QAs)

O R D E R (Common)

By Madan Mohan, Judicial Member -

"As the issue involved in both the aforementioned cases
is common and the facts and grounds raised are identical, for
the sake of convenience these Original Applications are being
disposed of by this common order.

2. By filing these Original Applications, the applicants
have claimed the following main reliefs :

"In OA No. 160/2004 -

(i) quash the impugned orders dt. 18.11.2000, 1.11.01

and 31.7.2003 Annexure A-1, A-2 & A-3 respectfully,

(i) direct the respondents to refund the amount already recovered from the applicant alongwith interest thereon @ 12% per annum within three months."

In C.A. No. 194/2004 -

(i) quash the impugned orders dt. 26.12.2000, 15/18.1.2002 and 22.8.2003 Annexure A-1, A-2 & A-3 respectfully,

(i) direct the respondents to refund the amount already recovered from the applicant alongwith interest thereon @ 12% per annum within three months."

3. The brief facts of the case in CA No. 194/2004 are that the applicant was appointed as Postal Asstt. in the Department of Post and joined his service on 31.7.1997. He was entrusted with the duties of Ledger Asstt in the Head Post Office, Dhar. After the applicant joined his service he was not given any training with regard to the work of Ledger. A charge sheet was served on the applicant under Rule 16 of the CCS (CCA) Rules, 1965 on 10.8.2000 alleging that there were bogus withdrawals in the recurring deposit accounts which has resulted in loss of Rs. 40,800/- and for which the applicant is personally responsible. The applicant submitted his representation dated 28.11.2000. But the respondents without properly examining the case of the applicant passed the impugned order dated 26.12.2000, imposing the penalty of recovery of Rs. 29,100/- and censure. Being aggrieved the applicant preferred an appeal which was partly allowed by the impugned order dated 15/18.1.2002, whereby the penalty of censure was set aside, and the amount of recovery has been reduced to Rs. 19400/-. Thereafter the applicant filed a revision petition which was dismissed/rejected vide order dated 22.8.2003. Hence, this Original Application is filed.

4. The brief facts of the case in OA No. 160/2004 are

that the applicant was appointed as Postal Asstt. in the Department of Post and joined his service with effect from 21.7.1998. He was entrusted with the duties of Additional Ledger Asstt. The applicant was not given any training with regard to the work of Ledger. The applicant was served with a charge sheet dated 10th August, 2000 alleging that there were bogus withdrawals in the Recurring Deposit Accounts which has resulted in loss of Rs. 51850/- for which the applicant is personally responsible. The applicant submitted his representation dt. 20.10.2000. But the respondents without properly examining the case of the applicant passed the impugned order dated 18.11.2000 imposing the penalty of recovery of Rs. 21338/- and censure. Being aggrieved the applicant preferred an appeal which was rejected vide order dated 1.11.2001 and thereafter the applicant preferred a revision petition which was also rejected vide order dated 31.7.2003. Hence, this Original Application is filed.

5. Heard the learned counsel for the parties and carefully perused the pleadings and records.

6. It is argued on behalf of the applicants that no fraud was committed by them and they were neither directly or indirectly involved in it. Hence, no order of recovery should have been made by the respondents. It is further argued on behalf of the applicants that the respondents did not provide any training to the applicants with regard to the work of Ledger. The authorities concerned have not duly considered the contentions of the applicants while passing the impugned orders. Our attention is drawn towards the order passed by the Madras Bench of the Tribunal in the case of C.N. Harihara Nandan Vs. Presidency Post Master, Madras GPO, and another, (1988) 8 ATC 673. The Tribunal



observed that "CCS (CC&A) Rules, 1965 - Rule 11 - Recovery from pay - Permissibility - Non following of departmental instructions for verification of relevant records resulting in non detection of fraud committed by another government servant - Such negligence, held, not punishable with recovery from pay, of the pecuniary loss caused by the fraud - AIS (D&A) Rules, 1968." Hence, both the OAs are liable to be allowed.

7. In reply the learned counsel for the respondents argued that there is no provision of any training to be given to the applicants by the respondents. The question of handwriting expertisation does not arise and the standard of knowledge applicable is not of hand writing expert but that of a reasonable man who could detect the difference in signature with naked eyes while doing routine work as P.A. However, the applicants failed to exercise this simple/reasonable check as provided for. The specific duty of the applicants are to compare and certify the authenticity of signature but the applicants failed to do so. After careful consideration of the representation of the applicants the orders have been passed by the authorities concerned. The facts of the case cited by the applicants are not applicable in these cases because in these cases the applicants have admitted their faults. The applicants have violated Rule 38(1)(2)(3) of the Post Office Savings Banks Volume I. Thus, these OAs are liable to be dismissed.

8. After hearing the learned counsel for the parties and on careful perusal of the records and pleadings, we find that the argument advanced on behalf of the applicants that the respondents did not provide any training to them as they were not well conversant with the rules regarding their



duties as Ledger Assistant and Additional Ledger Asstt, is not legally tenable as ~~ignorance~~ of law is not an excuse. It was the duty of the applicants to discharge their duties according to the rules and to be vigilant in this regard. We further find that the applicants have violated Rule 38(1)(a) of the Post Office Savings Banks Volume-I.

The said rule is extracted below :

"38(1)(a) Procedure in Head Offices in respect of withdrawal at Sub Offices : When the amount of a withdrawal is paid by a sub office the amount paid will be shown in the list of transactions and the charge will be supported by the warrant of payment duly signed by the person to whom payment was made. The balance entered by the depositor on the application shall be checked by the Ledger Assistant with the balance in the ledger card. The signature of the depositor on the application should also be compared by him with the specimen in the application card/ SS card and the signature of the person who received payment on the warrant should be compared with that on the application, in the case of withdrawal made at single handed sub offices. In the case of withdrawal made at other sub offices (not in LSG or above) the check of the signature should be carried out in respect of withdrawal of Rs. 1000/- or above. This check need not be exercised in respect of withdrawal at sub offices in LSG or above."

Both the applicants have admitted their fault as is clearly mentioned in Annexure A-1 filed in both the OAs. Though the applicants themselves did not commit any fraud but apparently they were negligent towards their duties. We have perused the order cited by the applicants and find that ~~they are~~ ^{that} distinguishable as the applicants in the present cases have admitted their fault. Further we have perused the impugned orders passed in both the OAs and find that ~~they are~~ ^{these} detailed, speaking and reasoned orders.

9. Considering all the facts and circumstances of both the cases, we are of the opinion that the applicants have failed to prove their cases and these Original Applications are liable to be dismissed as having no merits. Accordingly both the OAs are dismissed. No costs.

Sd/-
Judicial Member

"SA"

(M.P. Singh)
Vice Chairman

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