CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

CIRCUIT SITTING AT GWALIOR

OA Nos.34/04; 35/04;
39/04 & 46/04

Gwalior, this the 23rd day of June 2005.

CORAM

HON'BLE MR.M.P.SINGH, VICE CHAIRMAN
HON'BLE MR.MADAN MOHAN, JUDICIAL MEMBER

OA No.34/04

Chanda Khan
S/o Late Bunde Khan
Postal Assistant
Gwalior R.S., Gwalior. Applicant.

(By advocate Shri M.Rao)

Versus

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

2. Post Master General
Indore Region, Indore.

3. Director, Postal Services
O/o P.M.G. Indore Region,
Indore.

4. Superintendent of Post Offices
Gwalior Division, Gwalior. Respondents

(By Advocate Shri P.N.Kelkar)

OA No.35/04

Nandkishore Ghhari
S/o Guljarilal Chhari
Postal Assistant
Naya Bazar, Lashkar
R/o 380m Suresh Nagar
Thatipur, Morar
Gwalior. Applicant

(By advocate Shri M.Rao)

Versus

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

2. Post Master General
Indore Region, Indore.

3. Director, Postal Services
O/o P.M.G. Indore Region
Indore.

4. Superintendent of Post Offices
Gwalior Division
Gwalior. Respondents.

(By advocate Shri P.N.Kelkar)

OA No.39/04

S.R.Verma
S/o Shri Ramdayal
Assistant Post Master
Shakti Nagar
Post Office, Gwalior
R/o Post Jaderuakalan,
Morar, Gwalior. Applicant

(By advocate Shri M.Rao)

Versus

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

2. Post Master General
Indore Region, Indore.

3. Director, Postal Services
O/o P.M.G. Indore Region,
Indore.

4. Superintendent of Post Offices
Gwalior Division, Gwalior. Respondents.

(Shri P.N.Kelkar)

OA No.46/04

V.V.Thorkar
S/o Shri Vithalrao
Sub Postmaster Birlanagar
R/o Gaughat Inderganj,
Tomar Building Qr.No.7, Lakshkar
Gwalior. Applicant.

(By advocate Shri M.Rao)

Versus

1. Union of India through Secretary
Ministry of Communications,
New Delhi.

2. Post Master General
Indore Region
Indore.

3. Director Postal Services
Office of PMG, Indore
Region, Indore

4. Superintendent of Post Offices
Gwalior Division
Gwalior. Respondents

(By advocate Shri P.N.Kelkar)

ORDER

By Madan Mohan, Judicial Member

Since the issue involved in the aforesaid four OAs is same and the facts are identical, these OAs are being disposed of by this common order.

2. The brief facts of OA No.34/04 are that the applicant while working as SORD Ledger Assistant and SOSB Ledger Assistant during the period 1.12.98 to 31.7.99 received RD L.Ts of Shabda Pratap Ashram, Gwalior , but failed to carry out the prescribed checks of L.Ts, pay-in-slips etc. and failed to post the transactions in ledger cards, thereby facilitating fraud of Rs.3,18,206/- committed by the employees of Shabda Pratap Ashram after 8.6.99. Thus, by doing so, the applicant acted against the provisions of Rules 9(i), 31(2) (iii), 48(ii), 74(3), 92 (2), 120 (6) of Post Office Savings Bank Vol.I and PMG Indore's instructions dated 1.4.97, thereby violating Rules 3 (i) (ii) and (iii) of CCS (Conduct) Rules, 1964. In respect of these allegations, a charge sheet dated 15.2.02 was served on the applicant. He submitted reply dated 11.3.2002. Thereafter, the disciplinary authority vide order dated 8.5.2002 awarded a punishment of recovery of Rs. 22,248 and penal interest thereon Rs.6474, totalling the amount to Rs.28,722/-. The recovery was ordered to be effected w.e.f. May 2002 @ Rs.900/- per month. He preferred an appeal which was dismissed vide Annexure A4. The facts in other 3 OAs are identical except for the amount to be recovered. Aggrieved by the proposed recovery, the applicants have filed the aforesaid

OAs.

3. In reply, learned counsel for the respondents argued that the applicants were guilty of facilitating the fraud committed by the staff of Sub Post Office of Shabda Pratap Ashram Gwalior. The disciplinary authority took a rational view and assessed the total loss caused to the Government and fixed the percentage of liability amongst all the employees found guilty of facilitating the fraud and accordingly ordered the recoveries to be made from them. The appellate authority has also upheld the order of the disciplinary authority after considering and rejecting the appeals made by the applicants. The action of the respondents is perfectly legal and justified and it does not call for any interference by the Tribunal.

4. Heard learned counsel for both parties. Learned counsel for applicants argued that the facts of the aforesaid OAs are similar to OA Nos.344/03, 353/03, 354/03, 355/03 & 357/03. All the five OAs were allowed and the impugned orders of recovery issued by the disciplinary authority in each OA and confirmed by the appellate authority in each OA were quashed and set aside and the respondents were directed to refund the amount to the respective applicants.

5. We have perused the order cited on behalf of the applicants. Paragraph 6 of the Tribunal's order dated 22nd November, 2004 reads as follows:

> "It is quite obvious from the pleadings and arguments of both the parties that none of the applicants was charged with misappropriating any amount nor it was alleged that his integrity was doubtful. It is also an undisputed fact that all of them were served with a minor penalty charge sheet under Rule 16 of the CCS (CCA) Rules, implying thereby that no question of serious nature requiring a detailed enquiry was involved. It is also to be noted that there is absolutely no allegations against any of the applicants that he was a co-conspirator in the misappropriation of the amount of Rs.3,43,596 perpetuated by the staff of the Shabda Pratap Ashram, Gwalior. The only ground on which the recovery is sought to be made against the

applicants is that they had not observed certain procedure prescribed by the rules and being negligent in not observing this procedure had facilitated the Sub Postmaster and others in misappropriating the said amount. It is also alleged that their timely action in detecting the fraud would have perhaps prevented further fraud."

6. We find that the decision taken in the aforesaid five OAs shall apply mutatis mutandis in the present case.

7. Accordingly, we allow all the four OAs and quash and set aside the impugned orders of recovery issued by the disciplinary authority in each OA and confirmed by the appellate authority in each OA and direct the respondents to refund the amount to the respective applicants, if any amount is recovered from the salary by way of the recovery in implementing the punishment imposed on them, within three months from the date of receipt of a copy of this order, failing which the same will have to be refunded with interest at the rate of 9% per annum. No order as to costs.

8. Copy of this judgement be placed in each OA.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

aa.

पृष्ठांकन सं ओ/न्या.......................जबलपुर, दि...............
प्रतिलिपि अग्रेषित :-
(1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
(2) आवेदक श्री/श्रीमती/कु ....के काउंसल
(3) प्रत्यर्थी श्री/श्रीमती/कु ....के काउंसल
(4) ग्रंथपाल, केप्रशा, जबलपुर
सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

M. Rao PN RW1 (4)
P.N. Kelkar PN Gwl (4)
C 525/6/05

Issued on 27-6-05