

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 724 of 1998

Jabalpur, this the 8th day of April 2003.

Hon'ble Mr. R.K. Upadhyaya - Member (Adminv.)
Hon'ble Mr. A.K. Bhatnagar - Member (Judicial)

Sri Ram Kumar Rajput, aged 35
years, S/o Sri Gopi Ram
Rajput, P.A. Bilaspur R.S. PO
(Railway Post Office)
Bilaspur - 495004.

APPLICANT

(By Advocate- Shri S.K. Nagpal)

VERSUS

1. Union of India,
Through Post Master General
Office of Post Master General,
Raipur Region, Raipur, M.P.
2. Superintendent of Post Offices
Bilaspur Division, Bilaspur
Pin-495001.

RESPONDENTS

(By Advocate - Shri B. Dasilva)

O R D E R (Oral)

By A.K. Bhatnagar, Member (Judicial) :-

By this Original application filed under section 19 of the Administrative Tribunal Act, the applicant has challenged the order dated 29/08/1997 issued by respondent No. 2 (Annexure A/1) by which recovery of Rs. 15,960/- have been imposed upon the applicant and the order dated 11/02/1998 (Annexure A/2) rejecting the appeal filed by the applicant. The applicant has sought relief by quashing the impugned orders Annexure A/1 and Annexure A/2 respectively and for directing the respondents to refund the amount already recovered on the salary of the petitioner with interest. In the interim relief the applicant has sought direction of this Tribunal to the respondents to stay the recovery. Vide order dated 29/09/1998 the order of recovery has been stayed .

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2. The case of the applicant is that he was charge sheeted under Rule 16 of the CCS(CCA) Rules on 3/6-1-97 (Annexure A/3), ^{on} ~~the~~ ^{some} allegation that ~~illegal~~ transaction was made by one Shri J.P. Mishra who was working as Sub Post Master in Sarkanda NDTSO, Bilaspur. Shri J.P. Mishra made fraudulent withdrawal and committed misappropriation from the savings banks accounts of various persons ^{the} to ~~the~~ tune of Rs. 2,50,000/-. It was alleged that during 1993-94 the applicant did not ensure that proper check were carried out and did not follow the procedure laid down in Rule 38(3), 32(2) of the POSB Mannual Vol. I. Based on the charge penalty of recovery of Rs. 15,960/- in 35 equal instalments of Rs. 442/- has been imposed upon the applicant. Aggrieved by this the applicant filed an appeal on 16/10/1997 (Annexure A/9) which was rejected by the appellate authority vide order dated 11/02/1998 (Annexure A/2).

3. The learned counsel for the respondents contested his case by filing the return. In para 19 of the counter reply the respondents have contended that the applicant had opportunity of preferring a petition before the departmental authorities which he failed to avail. So petition is premature and deserves to be dismissed.

4. We have heard Shri S.K. Nagpal learned counsel for the applicant and Shri B. Dasilva for the respondents. The learned counsel for the applicant submitted that it is a case where fraud was committed by one Shri J.P. Mishra, while the applicant had only worked for one day on 02/04/1994 and made only an entry of Rs. 1,400/- and therefore he could not be held responsible for all the transactions. The learned counsel for the applicant further submitted that disciplinary authority and

appellate authority has acted mechanically and without application of mind. The punishment is unwarranted as it was Shri J.P. Mishra who had committed the fraud and the petitioner cannot be held responsible for the same. The learned counsel for the applicant places reliance on the order passed by this Tribunal in OA No. 725/1998 decided on 3rd April 2000 in the case of R.K. Kshatri Vs. Union of India.

4.1. In view of the aforesaid we are of the view that the present case is covered by the order passed in OA No. 725/1998 and is applicable in this case. The order passed in 725/1998 reads as under :

"Based on the submissions made by the learned counsel of applicant, we feel that case requires reconsideration by the respondents. We also find that the applicant has not made a revision petition to the revising authority. Accordingly, we dispose of this OA with a direction that in case the applicant submits a revision petition ~~al-ong~~ with a copy of this order to the revising authority within 10 days, through speed post to avoid delay, in that event, the Revising Authority shall consider the case of the applicant without taking the plea of limitation, if any, and reply to the applicant through a speaking order within two months from the date of receipt of the same and communicate to the applicant promptly. The interim order with regard to recovery shall stand vacated after two months from the date of this order".

Therefore the applicant is directed to submit a revision petition along with a copy of this order to the revising authority within one month through speed post to avoid delay, in that event, the revising authority shall consider the case of the applicant without taking the plea of limitation, if any, and reply to the applicant through a speaking order within two months from the date of receipt of the same and communicate to the applicant promptly. The interim order with regard to recovery shall stand vacated after two months from the date of this order.

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5. With the above direction, the original application is disposed of, with no order as to cost.

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(A.K. BHATNAGAR)
MEMBER (J)

रुद्रेश्वर
(R.K. UPADHYAYA,
MEMBER (A)

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
यतिविरति अद्यो धित:-

- (1) सविन, उच्च न्यायालय वार एस्टेसियर, जबलपुर
- (2) आदेशावली/पंजी/पु.....के काउंसल *R.K. Upadhyaya, Adv.*
- (3) प्रत्यक्षी की/पंजी/पु.....के काउंसल *B. Dasgupta, Adv.*
- (4) न्यायालय, रीट/पु, जबलपुर न्यायालय
सूचना एवं आवश्यक कार्यावली हेतु

17.4.03
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"SA"

*Issued
On 21.4.03
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