

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH

Jaipur, this the 18<sup>th</sup> September, 2008

**ORIGINATION APPLICATION NO. 226/2006**

**With**

**MISC. APPLICATION NO. 133/2006**

**CORAM:**

HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Prabhu Narain Yadav son of Shri Sunder Lal Yadav by caste Yadav  
aged about 61 years, resident of Badwali Dhani, Near Kanakpura,  
Railway Station, Jaipur.

.....APPLICANT

(By Advocate: Mr. P.N. Jatti)

VERSUS

1. Union of India through the Secretary to the Government of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur.
3. Senior Superintendent Railway, Mail Service, Opposite Radio Station, M.I. Road, Jaipur.

.....RESPONDENTS

By Advocate: (Mr. T.P. Sharma)

**ORDER (ORAL)**

In this case, the applicant has moved this OA under Section 19 of the CAT Act, 1985. This OA has been filed as the representation dated 29.12.2005 submitted to the Senior Superintendent, Railway Mail Service, Jaipur Division, Jaipur has not yet been decided. In this OA, the applicant has prayed for the following reliefs:-

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- "(i) That by a suitable Writ/order or the direction the respondents be directed to refund the sum of Rs.6000/- (six thousand) as per the letter dated 2.1.2003 with a reasonable interest.
- (ii) Any other relief which the Hon'ble Bench deems fit."

2. Briefly facts of the case as given in the order No. K4/52/97-98 dated at Jaipur -1 dated 02.01.2003 (Annexure A/3) are :-

"On 5.9.96, Jaipur RMS/2 received air bags, brought by ADMA/2 in connection with Jet Air Ways, summarized in a summary way bill prepared by T.M.O. A.P. Bombay/II dated 5.9.96 comprising total number of bags as 76+3 including one way bill from Cal. Air TMO/3 dated 4.9.96 consisting of 16+1 bags.

During the course of opening of bags, received entered in the Way Bill from Cal. Air TMO/3, Shri P.N. Yadav AHS I who was getting the bags opened, noted against the entry of bags from Cal. RMS/2 as N/R (i.e. not received) and subsequently noted receipt of one 'L' bag from Cal. RMS B CSO/2 without entry in the said way bill. Shri P.D. Jajoria ADMA/2, who had brought mails, though had obtained remark of delivery of 76+2 bags against 76+3 bags on the Summary Way Bill, but work papers of AHS I showed disposal of all the 3 PCs as received entered in the way bills and thus no P.C. remained short. The said bag from Cal. RMS/2 Regn. (Eve) which contained 139 RLs and 30 Ins. Letters, thus lost during transit. During the course of enquiries the following lapses were noticed against the officials as under:-

1. Shri P.N. Yadav A.H.S. I

- (a) He failed to check and compare the bags actually received with those entered in the way bills before opening of bags.
- (b) He failed to get the matter reported telegraphically and also in the rough note book and Daily Report of the set.

2. Shri P.D. Jajoria A.D.M.A./2

He failed to check the bags and compare them with the entries in the W.B., at the time of their receipt from Air Authorities and thus failed to point out the short receipt of particular bag in question.

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The above mentioned lapses on the part of the officials resulted into frustration of enquiries in pinpointing the actual place of loss of said bag and bring the real culprit to book. The Govt. has suffered a loss of Rs.12,000/- so far in shape of Compensation paid to the Senders of the Ins. Letters.

Shri P.N. Yadav and P.D. Jajoria are thus held equally responsible for the loss sustained by the Deptt. due to their contributory negligence.

Therefore, Shri P.N. Yadav Stg. Asstt. and P.D. Jajoria are, therefore, directed to deposit a sum of Rs.12,000/- i.e. 6000/- in any P.O. voluntarily within a period of One week and to submit credit note to this office failing which disciplinary action will be taken to recover the amount of loss sustained by the Deptt. due to their negligence."

3. Learned counsel for the applicant pleaded that this issue has been decided in the case of P.D. Jajoria vs. Union of India & Others in OA No. 466/2004 through order dated 20.12.2005. Learned counsel for the applicant had relied upon Para No. 5 of the order whereby this Tribunal has allowed the OA of P.D. Jajoria and in compliance of this order, the respondents have already refunded Rs.6000/- to Shri P.D. Jajoria. Learned counsel for the applicant prays that similar directions should also be given in the case of the applicant of this OA.

4. Learned counsel for the respondents, Shri T.P. Sharma, relied upon the reply and rebutted the contention of the learned counsel for the applicant on the basis of the reply already filed.

5. After hearing the rival submissions and perusal of records, it is pertinent to quote Paras nos. 4 & 5 of the order dated 20.12.2005

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passed in OA No. 466/2004 in the case of P.D. Jajoria, which reads as under:-

"4. In order to cut short the controversy, this Court directed the respondents to show from the records whether the Air Way Bill in question containing the bag was, in fact, dispatched by the respondents from Calcutta or not and whether they have entered it in the Dispatch register at Calcutta or not. Today, the respondents have produced the relevant record before the Court. Learned counsel for the respondents after going through the records, submitted that no such entry has been made regarding dispatch of article in the Air Way Bill in question which is alleged to have been received by the applicant. Thus, I find that entire base of the case falls to the ground because when the articles in questions have not been mentioned in the record to have been dispatched to the applicant, the question of holding the applicant guilty for loss of such articles does not arise at all. Keeping in view the same, I find that the applicant has been held guilty without any evidence and has been punished.

5. Ordinarily the Tribunal is not required to appreciate the evidence while exercising the powers of judicial review but in such type of cases where the case is based on no evidence at all the Tribunal can certainly go into the question whether the findings have been arrived at correctly or not. Since this is also a case based on no evidence, I find that the applicant could not have been held guilty of the charges leveled against him vide Annexure A/1. Thus, the charge sheet and subsequent proceedings fail and are liable to be quashed. The OA deserves to be allowed and accordingly I allow the OA and quash the impugned orders. Recovery, if any made, may be refunded to the applicant within a period of four months from the date of receipt of a copy of this order."

6. From perusal of above order of the OA dated 20.12.2005; it is evident that articles in question had not been mentioned in the record having been dispatched to the applicant. This fact has been recorded in the order in the case of P.D. Jajoria by this Tribunal after seeing the relevant record that no entry is made regarding dispatch of article in

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the Air Way Bill in question which is alleged to have been received in this case.

7. After appraisal of the facts of the case and perusal of order of the CAT, Senior Superintendent, Railway Mail Service, Jaipur Division, Jaipur is directed to decide the representation of the applicant dated 29.12.2005 within a period of two months from the date of receipt of a copy of this order. In case the applicant is aggrieved by the order to be passed by Senior Superintendent, RMS, Jaipur, he is at liberty to approach this Tribunal again by filing substantive OA.

8. With these observations, the OA is disposed of with no order as to costs.

9. MA No. 133/2006 has been moved by the applicant for condonation of delay in filing the OA. However, I find that the applicant has not challenged the order dated 02.01.2003 (Annexure A/3) under which he was asked to deposit Rs.6000/-. The applicant has moved this OA only for the disposal of the representation. Thus this OA is not barred by limitation. The MA No. 133/2006 is being dismissed as become infructuous.

  
(B.L. KHATRI)  
MEMBER (A)

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