IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 25th day of February, 2009

CORAM :

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

1. **ORIGINAL APPLICATION NO.332/2004**

K.L.Munjal,
s/o Late Shri Banwari Lal,
r/o 6-Kha-40, Jawahar Nagar,
Jaipur,
Retired from the post of Accountant,
Jawahar Nagar Head Post Office,
Jaipur.

... Applicant

(By Advocate : Shri C.B.Sharma)

Versus

1. Union of India through
Secretary to the Govt.,
Department of Posts,
Ministry of Communication,
Dak Bhawan, Sansad Marg,
New Delhi.

2. Principal Chief Post Master General,
Rajasthan Circle,
Jaipur.

3. Director Postal Services,
Jaipur Region,
Jaipur.

4. Sr.Supdt. of Post Offices,
Jaipur City Postal Division,
Jaipur.

5. Shri Anil Kumar,
Director Postal Services,
O/o CPMG, Bihar Postal Circle,
Patna (Bihar).

6. Shri B.L.Bhargava,
Ex-Assistant Director,
Postal Life Insurance,
O/o CPMG, Rajasthan Circle,
Jaipur,
R/o E-59, Shyam Nagar Extension,

New Sanganer Road,
Jaipur.

... Respondents

(By Advocate : Shri T.P.Sharma)

2. ORIGINAL APPLICATION NO.268/2006

N.L.Khandelwal,
Assistant Post Master (Accounts),
Jaipur GPO,
Jaipur.

... Applicant

(By Advocate : Shri C.B.Sharma)

Versus

1. Union of India through
Secretary to the Govt.,
Department of Posts,
Ministry of Communication,
Dak Bhawan, Sansad Marg,
New Delhi.

2. Principal Chief Post Master General,
Rajasthan Circle,
Jaipur.

3. Director Postal Services,
Jaipur Region,
Jaipur.

4. Senior Post Master,
Jaipur GPO,
Jaipur.

5. Shri B.L.Bhargava,
Ex-Assistant Director,
Postal Life Insurance,
O/o CPMG, Rajasthan Circle,
Jaipur,
R/o E-59, Shyam Nagar Extension,
New Sanganer Road,
Jaipur.

... Respondents

(By Advocate : Shri T.P.Sharma)

3. ORIGINAL APPLICATION NO.148/2007

Chandi Prasad Dobriyal
Assistant Post Master (Accounts),

HSG-I, Jaipur GPO,
Jaipur.

... Applicant

(By Advocate : Shri C.B.Sharma)

Versus

1. Union of India through
Secretary to the Govt.,
Department of Posts,
Ministry of Communication,
Dak Bhawan, Sansad Marg,
New Delhi.

2. Chief Post Master General,
Rajasthan Circle,
Jaipur.

3. Director Postal Services,
Jaipur Region,
Jaipur.

4. Sr.Supdt. of Post Offices,
Jaipur City Postal Division,
Jaipur.

5. Shri Anil Kumar,
the then Director Postal Services,
Jaipur Region, Jaipur,
At present Director Postal Services,
Hyderabad (Andhra Pradesh).

6. Shri B.L.Bhargava,
Ex-Assistant Director,
Postal Life Insurance,
O/o CPMG, Rajasthan Circle,
Jaipur,
R/o E-59, Shyam Nagar Extension,
New Sanganer Road,
Jaipur.

... Respondents

(By Advocate : Ms.Kavita Bhati, proxy counsel for
Shri Kunal Rawat)

ORDER

PER HON'BLE MR.B.L.KHATRI

All the three OAs have been filed on similar facts and grounds. Therefore, all the three OAs are being disposed of through this consolidated common order.

2. The applicants have filed all the three OAs u/s 19 of the Administrative Tribunals Act, 1985.

3. In **OA 268/2006** applicant, **N.L.Khandelwal**, is aggrieved by the memo dated 29.6.2006 by which appeal preferred by him has been decided by reducing the penalty of recovery Rs.54833/- to Rs.49310/- by respondent No.3 against penalty of recovery of Rs.54833/- imposed vide memo dated 27.6.2005 by respondent No.4, as per Ann.A/1 and A/2 respectively. Through this OA the applicant has prayed for the following relief :

> "i) That the entire record relating to the case be called for and after perusing the same appellate order dated 29.6.2006 (Ann.A/1) with the punishment order dated 27.6.2005 (Ann.A/2) and charge memo dated 11.10.2004 (Ann.A/7) be quashed and set aside with all consequential benefits.
>
> ii) That respondents may further be directed to refund amount recovered from the applicant alongwith interest @ 12% p.a. from the date of recovery to till payment."

Brief facts of the case are that the applicant was served with a charge-sheet under Rule-16 of the CCS (CCA) Rules, 1965 by the Sr.PM, Jaipur GPO, vide memo dated 11.10.2004 on the allegation that while working as Accountant, Jawahar Nagar HO, Jaipur, during the period from 27.10.98 to 22.3.2001, he failed to observe the correct procedure in respect of payment of 17 bogus PLI sanctions issued in the name of bogus claimants, which were brought by hand by Shri N.K.Chhabaria, PA, CO, Jaipur. It was further alleged that negligence on the

part of the applicant facilitated a fraud worth Rs.1,60,734/- in which applicant's share was worked out to be Rs.54833/-.

4. In **OA 148/2007** applicant, **Chandi Prasad Dobriyal**, is aggrieved by the memo dated 12.5.2006 by which appeal preferred by him has been rejected by respondent No.3 against penalty of recovery of Rs.8922/- imposed vide memo dated 29.10.2004 by respondent No.4., as per Ann.A/1 and A/2 respectively. Through this OA the applicant has prayed for the following relief :

> "i) That the entire record relating to the case be called for and after perusing the same appellate order dated 12.5.2006 (Ann.A/1) with the punishment order dated 29.10.2004 (Ann.A/2) and charge memo dated 12.8.2004 (Ann.A/9) be quashed and set aside with all consequential benefits.
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> ii) That respondents be further directed to refund amount recovered from the applicant Rs.8922/- alongwith interest @ 12% p.a. from the date of recovery to till payment."

Brief facts of the case are that the applicant was proceeded against under Rule-16 of the CCS (CCA) Rules, 1965 by the SSPOs, Jaipur City Division, Jaipur, vide memo dated 12.8.2004 on the allegation that while working as APM (A/Cs), Shastri Nagar HO, Jaipur, on 8.1.99, 30.5.2000 and 16.11.2000, he failed to observe the correct procedure in respect of payment of 3 bogus PLI sanctions issued in the name of bogus claimants. It was further alleged that negligence on the part of the applicant facilitated a fraud worth Rs.26765/-.

5. In **OA 332/2004** applicant, **K.L.Munjal**, has challenged the order dated 19.2.2004 (Ann.A/1), by which appeal preferred by him had been rejected by respondent No.3, and

the order dated 23.4.2003 (Ann.A/2), by which penalty of recovery of Rs.14,000/- was imposed upon him by respondent No.4. Through this OA the applicant has prayed for the following relief :

> "i) That the entire record relating to the case be called for and after perusing the same appellate order dated 19.2.2004 (Ann.A/1) with the punishment order dated 23.4.2003 (Ann.A/2) and charge memo dated 25.2.2003 (Ann.A/7) be quashed and set aside with all consequential benefits.
>
> ii) That respondents may further be directed to refund Rs.14,000/- recovered from the applicant alongwith interest @ 12% p.a. from the date of recovery to till payment."

Brief facts of OA 332/2004 are that charge memo dated 25.2.2003 (Ann.A/7) was issued to the applicant alleging that while working as Assistant Postmaster (Accounts) Jaipur GPO during the period 6.11.98 to 28.3.2001 passed pay orders on the bogus sanctions which were brought by hand personally by Shri N.K.Chhabariya, Postal Assistant, Office of the Chief PMG, Rajasthan Circle, Jaipur, without issuing notice to the insurants to take payment and without verifying the signature of the officers who signed the sanction in pay orders and the refund orders with the help of specimen signature of the officer available in the head office, which resulted in pecuniary loss to the department to the tune of Rs.1,39,946/-.

6. In all the three cases, the penalty was imposed for the portion amount of loss sustained by the department. The applicants filed appeal against the said penalty before the Director Postal Services who, after considering all the submissions of the applicants, had sustained the order passed by the disciplinary authority to recover the loss sustained to the department.

7. Learned counsel for the applicants relied upon the pleadings made in the OAs and, inter-alia submitted as under :

i) That the Postal Life Insurance work is being carried out by the respondent department in which the department insures the employees and thereafter necessary policies are being issued to the insurant and prescribed premium etc. is being recovered through post offices. In Postal Life Insurance (PLI) Policy, provisions regarding loan to the Insurant are also available and on the request of such Insurant and after maturity of the policy necessary sanctions for payment are being issued by the office of respondent No.2 where separate section is functioning for this purpose headed by Class-I and Class-II Officers under respondent No.2. All the record of policies and transactions as regard to deposit and payments is being maintained in the office of respondent No.2 and deposits and payments are being carried out through Post Offices. In Post Offices whenever any sanction is issued for any payment by the office of respondent No.2, the Head Post Office concerned authorised payments and thereafter payment is being made to the Insurant from the cash handling staff after proper identification of Insurant through witnesses produced by him for that purpose. The accounts branch of a Head Post Office is entrusted with the work of pay order after verifying signatures of sanctioning authority working under respondent No.2 made available from time to time. As per rules on this subject, the Head Post Offices are sending schedules of payment and intimation of payments to the office of respondent No.2 for examining correctness of payment.

ii) That the payment of Postal Life Insurance Policies is being made on day to day basis as per norms of the department. In the years 1998 to 2001 one Shri N.K.Chabariya, Postal Assistant, who was working in the PLI Section, office of respondent No.2, any how managed fictitious sanctions of various policies and managed to take payment from various Head Post Offices situated in

Jaipur City i.e. Jaipur GPO, Shastri Nagar and Jawahar Nagar Head Post Offices by going through all the formalities as per norms of the department and when this came to the knowledge of the department that double payments had been authorised by way of issuing necessary sanctions, inquiry was conducted and matter was also reported to the CBI for investigation and further action. The CBI after due investigation filed challan against Shri N.K.Chabariya which is pending before the competent court in which all such policies have been included in the challan and Shri N.K.Chabariya presently under suspension and department simultaneously took action to recover the amount as per provisions of PDC Act through Revenue Authorities. Besides, Shri N.K.Chabariya also deposited Rs.10,000/- on 21.6.2001 and Rs.40,000/- on 22.6.2001. It is further submitted that competent revenue authority after due consideration passed orders for recovery from property of Shri N.K.Chabariya but Shri Chabariya preferred appeal against the order which is pending for adjudication. In fact, N.K.Chabariya is wholly responsible for the pecuniary loss. He admitted this fact in the course of inquiry before the departmental authorities as well as the CBI.

iii) That after inquiry on behalf of respondent No.2 certain instructions have been issued by the Director Postal Services (HQ) to avoid such mis-appropriation of Government money vide letter dated 10.5.2002 which reflects that fraud of amounting Rs.5,65,683/- took place due to not proper working of the PLI Section under the control of respondent No.2. Respondent No.5, who was holding the post of Director Postal Services, and respondent No.6, working under him as Assistant Director PLI, conducted inquiry and respondent No.6 was himself involved in the procedure not adopted by the PLI Section as per provisions of letter dated 12.6.1996 which provides in para 4 and 5 as follows :

Review of Registers of all claims

Every week claims registers must be reviewed by JAO/AD/ APMG(PLI) to see whether intimations of payment have been posted in the registers and satisfy that no fraudulent payment were made.

Quarterly inspections of PLI Section

PLI Section should be inspected by the DPS (HQ) of the Circle with the Assistance of APMG/AD/(PLI).

The respondent No.5 and 6 did not act as per provisions of letter dated 12.6.1996 and encouraged such fraud otherwise fraud could not have taken place if the registers were reviewed every week and inspections had been conducted quarterly. Besides, respondent No.5 got inquired the matter through respondent No.6 to save himself and other staff working in PLI Section. In view of this position, respondent No.5 who is over all incharge of PLI Section with the other officers like respondent No.6 is wholly responsible to encourage such fraud and no such inquiry can be conducted by the respondent No.5 with the help of respondent No.6 as he himself was responsible for fraud. It is further submitted that respondent No.6 who conducted the so called inquiry forwarded list of officials and directed the disciplinary authorities to recover amount from the so called subsidiary offenders. In fact, no such directions can be issued by a higher authority who is acting as appellate authority to disciplinary authority.

iv) That on receipt of charge memos, applicants requested for supply of certain documents for submitting their effective representations. But all the relevant documents were not supplied to them for making effective representations.

v) That respondent No.4 also discriminated in initiation of departmental proceedings because in similar circumstances charge memo dated 30.12.2002 under Rule-16 of CCS (CCA) Rules, 1965 served upon one Shri Ramji Lal Soni APM Accounts, Shatri Nagar, HO, Jaipur,

alleging similar facts has been dropped vide memo dated 18.1.2003 (Ann.A/13) and amount about Rs.38,000/- withheld from the gratuity payment has also been released for payment. Similarly, the applicants have pleaded that in similar circumstances S/Shri A.S.Alwariya and Ganga Sahai Meena, the then Post Masters, Jawahar Post Office, have been left without any action and without any recovery inspite of fact that as per knowledge of the applicants the inquiry report sent for action on behalf of respondent No.5 also included the names of these employees.

vi) That respondent No.4 acted on the directions of higher authorities because no preliminary inquiry had been conducted by respondent NO.4 and no opportunity for any explanation has been extended prior to issuance of charge memo which is admitted from the request dated 26.3.2003 (Ann.A/9) which shows that no record of any inquiry is available with the respondent No.4 and applicant also not made available documents for inspection as desired by him prior to submission of effective representation. Besides, as per provisions of rule 12 punishing authority has been debarred from obtaining any guidance or comments from any higher authorities. Instruction No.6 below rule 12 of CCS (CCA) Rules, 1965 read as follows :

> "(6) **Powers of prescribed punishing authority –**
>
> A penalty can be imposed only by the prescribed punishing authority and an appellate authority or any other authority higher than the appropriate punishing authority cannot exercise any concurrent original disciplinary jurisdiction. In no circumstances should an authority higher than the punishing authority issue any direction in regard to the penalty to be imposed. Neither should a punishing authority obtain the guidance or comment of any superior authority in this respect. Nothing in this rule shall affect the authority of the President to impose any of the penalties on any Government servant."

In fact, respondent No.6 directed all the divisional heads including respondent No.5 to recover the defrauded amount from the subsidiary offenders after observing codified formalities i.e. issue of show cause notice or

initiation of disciplinary action as may be deemed fit/proper vide letter dated 30.7.2002.

vii) It was submitted that while passing the punishment order, respondent No.4 did not consider the points raised by the applicants as regards discrimination, as stated above.

viii) That the applicants preferred appeal before respondent No.3 narrating all the facts and circumstances and cleared their position that they are not responsible for any fraud committed by Shri N.K.Chabariya and unnecessarily the punishment of recovery is imposed at the verge of retirement, but the appellate authority without meeting out the points raised in the appeal rejected the same vide memo dated 19.2.2004. It is further submitted that respondent No.5, who was holding the post of Director Postal Services, Jaipur Region, Jaipur, at the relevant time and also appellate authority to the punishment awarded by respondent No.4 directed that disciplinary action be taken in connection with recovery and now at this stage the same authority i.e. respondent No.3 decided the appeal of the applicants. In fact appeal of the applicants can not be decided by respondent No.3 as well as respondent No.2 who is revising authority.

9. Learned counsel for the applicants vehemently argued that the applicants are not at all at fault and the fraud was committed by one Shri N.K.Chhabariya, PA in the office of CPMG, Jaipur, who was involved in defrauding the public money through bogus sanctions from Postal Life Insurance. Learned counsel for the applicants relied on the following judgements :

i) ***J.M.Makwana v. Union of India & Ors***. [2002 (1) ATJ 283];

ii) ***Smt. Kalpana Shinde & Ors. v. Union of India & Ors.*** [2005 (1) ATJ 45];

iii) ***Subhash Chandra v. Union of India & Ors***. [2006 (3) ATJ 381];

iv) ***K.Sukhendar Reddy v. State of Andhra Pradesh & Anr.*** [2002 (3) (CAT) SLJ 386]; &

v) ***Anand Regional Coop. Oil Seedsgrowers' Union Ltd. v. Shaileshkumar Harshadbhai Shah*** [2006 SCC (L&S) 1486].

10. Notice of this application was given to the respondents, who have filed their reply thereby opposing the claim of the applicant and, inter-alia, making the following submissions :

i) It was submitted that PLI Section Circle Office, Jaipur, deals with issuance of sanction of loan and maturity cases of PLI claims and sanction issued is sent to the concerned Head Post Office where certain formalities are observed by the Post Master before effecting payment to the insurant. One of the important duty is to tally the signature of sanctioning authority whose specimen signature are available with the Post Master. In the instant case proper check of tallying the signature was not carried out with the result the sanction with fake and fictitious signatures were allowed resulting in loss to the Govt. As such, his contention is not admitted.

ii) It is correct that Shri N.K.Chabariya, Postal Assistant, while working in PLI Section, Circle Office, Jaipur, during the period 1998 to 2001 managed to issue and obtain payment of fictitious sanction as certain formalities were not observed strictly by post office. The case filed by the CBI is pending in the court besides taking disciplinary action and action for recovery of loss under PDC Act. It is a fact that the main offender is Shri Chabariya but other officials including the applicants are co-offenders who failed to discharge their duties properly. As such, the plea put forth by the applicants is not admitted.

iii) There may be some lapses on the part of PLI Section but on this account the applicant cannot escape from his

responsibility of payment of bogus sanctions. It is also not correct that the claim register was not reviewed. It is also not correct that quarterly inspection of PLI was not carried out.

iv) Applicant's submission that they were not shown all the documents and the disciplinary authority acted as per direction of the appellate as well as reviewing authority and the disciplinary authority ignored the rules and regulations without application of mind is not admitted. In fact, the higher authority did not direct anything otherwise and the negligent officials in the case were there under the jurisdiction of respondent No.4 and the disciplinary authority was competent to take action so the plea of the applicant that the disciplinary authority did not apply his mind is totally baseless and finds no ground to stand.

v) Applicant's contention that respondent No.4 has acted discriminately in initiation of departmental proceedings in some similar cases is not admitted. In fact, there might be certain reasons for dropping the charges but the applicant has interpreted it as a matter of discrimination, which is not true and also it does not reduce the gravity of charge on the part of the applicant.

vi) Contention of the applicant that respondent No.4 acted on the direction of higher authorities and no preliminary inquiry was held is not admitted. In fact, the loss sustained in this case is more than one lakh, so Circle level inquiry was held in it and a number of subsidiary offenders were identified by the investigating authority. The applicant is one of the subsidiary offenders. In copy of Circle Level Inquiry there is a mention to recover the loss sustained by the department. Also, action against the applicant in which the higher authority did not issue any specific orders, as such the contention of the applicant is not admitted.

vii) Contention of the applicants that points of their representations were not considered and they were penalized, is not admitted. The representations of the applicants were given due consideration and the disciplinary authority arrived to the decision as per gravity of the case and the applicants were rightly punished. So far as the matter of other subsidiary offenders is concerned, some of them have credited the loss on their part voluntarily and this fact does not reduce the lapses on the part of the applicants and their plea finds no ground to move any more.

viii) Contention of the applicant that he cleared all facts in his appeal preferred to the appellate authority but the same was rejected, is not admitted. The appellate authority paid proper attention to all the points raised by him and the appeal was decided on merit. Contention of the applicant that the appellate authority, who decided his appeal can not decide the same is not maintainable. Respondent No.3 is in fact the appellate authority of the applicant and the appeal was handled rightly.

11. Learned counsel for the respondents also submitted that the disciplinary authority had imposed the penalty to recover the proportionate amount of loss sustained to the department and the appellate authority had also dismissed the appeal after having considered all the arguments advanced before him.

12. I have heard learned counsel for the parties and perused the material available on the record. The brief facts of the case have already been narrated in this order. In order to arrive at the correct conclusion, it is necessary to reproduce the relevant rules, which have also been relied upon by learned counsel for the applicants :

"Rule 575/11(a) of P&T Manual Vol.VI Part-III

(a) The postmaster, on receipt of the sanction for payment from Head Office Postal Circle, should give notice to the party to take the payment.

Rule 575/12(b) of P&T Manual Vol.VI Part III

It is incumbent on the postmaster making payment on behalf of Postal Life Insurance to ensure that the payment is made to the correct person. As large amounts are paid in respect of Postal Life Insurance Policies, the sanction should be carefully scrutinized and payees copy invariably collected. A watch should be kept in Head Offices in respect of sanctioned for which authorizations for payments are issued to sub offices. When loan payments are made at sub offices, a check should be made of the debits made in the sub-office accounts and it should be ensured that every such debit is supported by a duly receipted voucher and that this voucher represents the original sanction issued by the Head of the Postal Circle. In cases where there is any reason for doubt, a reference should be made promptly to the Head of the Postal Circle concerned.

Letter dated 12.6.1996 –

(1) Circulation of specimen signatures of Officers signing claims: As per rule 19 of FHB, Vol.I, specimen signature of the Officers authorized to sign sanction memos have to be circulated to all head Offices. Before making payment the Postmasters are required to see whether signature on the sanction tallies with the specimen signatures on record.

(7) Posting of sanctions for payment : The original copy of sanction addressed to the Postmasters should be sent by post only. It should not be handed over to the claimant or any other person to be taken by hand.

Rule-19 of F.H.B. Manual Vol.I –

The Accounts Officer will supply disbursing offices under his jurisdiction with a copy of the specimen signature of all Gazetted Officers serving under him who are authorised to sign payment orders on bills and vouchers or to issue letters of authority for payments to be made at such disbursing offices. Before a disbursing officer pays a bill on the authority of an order purporting to have been issued from the Accounts Office, he should verify the signature on the order by comparison with the specimen signature of the signing officer.

Rule 549 of F.H.B. Manual Vol.I -

Life Insurance Policies are paid on the death of the insurant and endorsement assurance policies either at the death of the insurant or on his attaining the age specified in his policy, on the authority of the Post Master General. . . . . The authority issuing the payment order will state therein that the premium due on the policy have all been paid or will intimate what arrears should be deducted from the amount of the policy.

On receipt of the order from the Postmaster General, the Postmaster will notify its arrival to the person to whom the amount of the policy is payable. Payment will be made on the payee signing a stamped receipt for the amount on the back of the order. The amount paid will be charged in the accounts under "Postal Life Insurance payment". Full details shall be given in the schedule of Payments on account of Life Insurance in accordance with the instructions contained in Chapter 9-A of P&T Manual Vol.VI Part III. The Postmaster Generals order with the payees receipt on the back shall be forwarded to the audit office in support of chare."

13. The brief facts of the case are that Shri N.K.Chhabariya , Postal Assistant, while working in PLI Section, Circle Office, Jaipur, managed to issue and obtain payment through fictitious

sanctions when these three applicants were working/officiating as Assistant Postmasters. Charge-sheets were issued for the reason that certain bogus sanctions which were brought by hand personally by Shri N.K.Chhabariya, Postal Assistant, were got encashed without issuing notice to the insurants to take payment and without verifying the signatures of the officers who signed the sanctions, pay orders and the refund orders with the help of specimen signatures of the officers available in the head office, which has resulted in pecuniary loss to the government. By doing so, the applicants failed to observe the provisions contained in Rule 575/11(a) of P&T Manual Vol.IV Part-III and Rule 549 of FHB Manual Vol.I. They failed to verify the authenticity of the pay orders, refund orders and the sanctions with the help of specimen signatures of the Assistant Director/Incharge of the PLI work in the circle and they also failed to follow Rule 575/12(b) of the P&T Manual Vol.VI Part-III. They had also acted in contravention of DG instructions contained in letter dated 12.6.96.

14. The next plea taken by learned counsel for the applicants is regarding non-supply of requisite documents asked for by the applicants. For this purpose, he had relied upon the case of ***Subhash Chandra v. Union of India & Ors.*** [2006 (3) ATJ 381]. In this connection, it is necessary to reproduce the relevant portion of Govt. of India's instructions under Rule 16 of the CCS (CCA) Rules, 1965, as under :

> "Rule 16 of the CCS (CCA) Rules, 1965, does not make it incumbent on the part of the disciplinary authority that it should give the accused official an opportunity to inspect the relevant records provided no formal enquiry is considered necessary by the disciplinary authority. If, however, an accused officer in such a case makes a request for permitting him to inspect the relevant records to enable him to submit his defence, the disciplinary authority may grant the necessary permission."

Applicant K.L.Munjal [in OA 332/2004], vide his request dated 1.3.2003 (Ann.A/8), had asked for the following documents :

i) Attested copy of sanction of respective policy for which I have been alleged.

ii) Attested copy of specimen signature of the officer who issued sanction of the policy.

iii) Attested copy of my statements obtained during preliminary inquiry.

iv) Attested copy of statements of concerned officer who signed the sanction of policy.

v) Attested copy of statements of Shri N.K.Chhabaria, P.A. Circle Office.

vi) Copy of duty list of Accounts Branch and Administrative Branch of GPO, Jaipur.

vii) Attested copy of challan filed by the CBI against Shri N.K.Chhabaria before competent Criminal Court.

viii) Attested copy of statements of policy holders.

ix) Attested copy of statements of persons/officials who put their witness on the sanction.

x) Attested copy of statement of dealing Assistant of Accounts Branch (PLI Work) of GPO, Jaipur, who scrutinized the PLI sanction and related documents before putting these to the APM Accounts to sign the pay order.

xi) Copy of preliminary Enquiry conducted on behalf of Chief Post Master General with the directions to the Divisional Heads to issue such charge-memo.

xii) Copy of documents which prove the sanction memos as fictitious one.

Applicant N.K.Khandelwal [in OA 268/2006], vide letter dated 23.10.2004 (Ann.A/10), had asked for the following documents :

i) Xeroxed copy of sanctions for respective policy for which undersigned has been alleged.

ii) Xeroxed copy of specimen signatures of the officer who issued sanction of the policy.

iii) Xeroxed copy of challan filed the CBI against Shri N.K.Chhabaria before competent Criminal Court.

iv) Attested copy of statements of policy holders of policies *in question.*

v) Attested copy of statements of persons/officials who put their witness on the sanction.

vi) Details of amount credited/recovered by other officials in respect of policies in question.

vii) Details of amounts credited under unclassified receipts by Shri Naresh Kumar Chhabria, PA, Circle Office.

viii) Xeroxed copies of the statements/reports/explanations of the sanctioning authority/authorities of the Circle Office, Section Supervisors of PLI Branch of the Circle Office.

ix) Xeroxed copies of the written statements of :

a) N.L.Khandelwal, the then Accountant, Jawahar Nagar Head Post Office, Jaipur.

b) Postal Assistant/Assistants dealing with PLI payments in Jawahar Nagar Post Office, Jaipur.

c) Naresh Kumar Chhabria, Postal Assistant, PLI Sections Circle Office.

d) Xeroxed copy of the report of the handwriting expert who compared the signatures of the sanctioning authorities of the Circle Office with the signatures of sanction memos.

e) Xeroxed copy of the report of the investigating officer who investigated into the alleged payments.

f) Xeroxed copies of vouchers on which pay orders were passed by me.

Applicant Chandi Prasad Dabriyal [in OA 148/2007], vide his request dated 20.8.2004 (Ann.A/11), had asked for the following documents :

i) Xeroxed copy of sanctions for respective policy for which undersigned has been alleged.

ii) Xeroxed copy of specimen signatures of the officer who issued sanction of the policy.

iii) Xeroxed copy of challan filed the CBI against Shri N.K.Chhabaria before competent Criminal Court.

iv) Attested copy of statements of policy holders of policies in question.

v) Attested copy of statements of persons/officials who put their witness on the sanction.

vi) Details of amount credited/recovered by other officials in respect of policies in question.

vii) Details of amounts credited under unclassified receipts by Shri Naresh Kumar Chhabria, PA, Circle Office.

viii) Xeroxed copies of the statements/reports/explanations of the sanctioning authority/authorities of the Circle Office, Section Supervisors of PLI Branch of the Circle Office.

ix) Xeroxed copies of the written statements of :

a) Shri Chandi Prasad Dobriyal, the then officiating APM, Accounts, Shastri Nagar Post Office, Jaipur.

b) Postal Assistant/Assistants dealing with PLI payments in Shastri Nagar Post Office, Jaipur.

c) Naresh Kumar Chhabria, Postal Assistant, PLI Sections Circle Office.

d) Xeroxed copy of the report of the handwriting expert who compared the signatures of the sanctioning authorities of the Circle Office with the signatures of sanction memos.

e) Xeroxed copy of the report of the investigating officer who investigated into the alleged payments.

f) Xeroxed copies of vouchers on which pay orders were passed by me.

15. I find that these documents had not been relied upon by the respondents. However, in order to prove lapse on the part of the applicants, the disciplinary authorities should have passed specific order regarding non-supply of the documents. If the COs seek to support their defence with reference to any of the documents in the custody of the department, then the documents either may be summoned or copies thereof may be given at the request of the COs.

16. The COs have also the right to call upon the disciplinary authorities to provide them opportunity to inspect the documents which they may feel necessary to consult before they file their written statements of defence though of course it is equally clear that asking for such inspection cannot in reality be only a fishing or randon inquiry of irrelevant documents and that unless the relevance of such documents is justified, the disciplinary authorities would be well within their right to refuse the same.

17. Where the COs want certain documents so as to be able to file reply to the charge-sheets and if the documents

demanded relate to the charges framed against them, then the authorities are bound to supply copies unless and until they are of the view that it is not possible to supply copies because the same are bulky, and in that eventuality only the authorities can direct the COs to make inspection of the bulky records. In **Trilok Nath v. Union of India & Ors.** [1967 SLR 759 (SC)] the Supreme Court has observed as follows :

> "If the public servant so requires for his defence, he has to be furnished with copies of all the relevant documents, i.e. documents sought to be relied upon by the Inquiry Officer or required by the public servant for his defence."

18. After having considered the facts and circumstances, in the case of K.L.Munjal [OA 332/2004] the order of the appellate authority dated 19.2.2004 and order of the disciplinary authority dated 23.4.2003, in the case of N.L.Khandelwal [OA 268/2006] the order of the appellate authority dated 29.6.2006 and the order of the disciplinary authority dated 27.6.2005 and in the case of Chandi Prasad Dobriyal [OA 148/2007] the order of the appellate authority dated 12.5.2006 and the order of the disciplinary authority dated 29.10.2004 are hereby quashed and set aside with the direction that the orders in these cases should be passed by the disciplinary authorities after receiving fresh representations from the applicants on supply of the requisite documents. The disciplinary authorities have to proceed in the matter from the stage of charge-sheets. The disciplinary authorities are hereby directed to supply copies of the requisite documents subject to relevancy of the same in the matter. In case the disciplinary authorities do not consider appropriate to supply copies of the requisite documents to the applicants, a speaking order should be passed.

19. Since the matter is being remitted to the disciplinary authorities for re-adjudication after taking into account the fresh submissions of the charged officers on being supplied the relevant documents, I do not consider necessary to go into the merits of the case.

20. All the three OAs stand disposed of with the above directions. No order as to costs.

(B.L.KHATRI)
MEMBER (A)

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