IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 1st ay of December, 2008

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)

ORIGINAL APPLICATION No.99/2008

Rajendra Kumar Khorwal
s/o late Shri Pooran Chand,
r/o Baman Mandir,
Devi Colony,
Bayana, presently working as
Mail Guard in Bayana - Trnasit
Mail Office, Bayana.

.. Applicant

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

Versus

1. Union of India
   through its Secretary,
   Government of India,
   Department of Posts,
   Dak Bhawan, Sansad Marg,
   New Delhi.

2. Chief Post Master General,
   Rajasthan Circle,
   Jaipur

3. Director Postal Services,
   O/o Chief Post Master General,
   Rajasthan Region,
   Jaipur

4. Senior Superintendent of Railway Mail Service,
   Jp Dn. Opp. Radio Station,
   M.I. Road,
   Jaipur.

... Respondents

(By Advocate: Mr Gaurav Jain)

ORIGINAL APPLICATION No.140/2008

Ghanshyam Sharma
s/o Shri Ram Swaroop Sharma
r/o Mohalla Bamanpura,
Bayana, presently working as
Mailman in Transit Mail Office,
Bayana.

.. Applicant

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

Versus

1. Union of India
   through its Secretary,
   Government of India,
   Department of Posts,
   Dak Bhawan, Sansad Marg,
   New Delhi.

2. Chief Post Master General,
   Rajasthan Circle,
   Jaipur

3. Director Postal Services (HQ),
   Jaipur

4. Senior Superintendent, Railway Mail Service,
   Jp Dn. Opp. Radio Station,
   M.I. Road,
   Jaipur.

... Respondents

(By Advocate: Mr Gaurav Jain)

O R D E R (ORAL)

By way of this common order, I propose to dispose of both these OAs as common question of facts and law is involved in these cases.

2. Briefly stated, facts of the case are that applicant in OA No. 140/2008, Shri Ghanshyam Sharma and applicant in OA No.99/08 Shri Rajendra Kumar

Khorwal at the relevant time were working in the Transit Mail Office, Bayana. It is admitted case between the parties that on 8.12.2006 a mail bag was despatched from Bayana MGD to Rudawal Sub Office at about 1700 to 1730 hours. The Postmaster MDG Bayana remitted cash of Rs. 20,000/- to Rudawal Sub Office on 8.12.2006 which was enclosed in a sealed leather cash bag. The mail bag was received by the applicant Shri Ghanshyam Sharma from Gramin Dak Sevak, Bayana MDG. From the material placed on record, it is evident that the mail bag was detained in Transit Mail Office, Bayana from 1700 hours of 8.12.2006 to 0900 hours of 9.12.2006. At the relevant time Shri Ghanshyam Sharma was working as Mail Guard whereas duties of Mail Guard were to be undertaken by Shri Rajendra Kumar Khorwal. It is also evident that Shri Rajendra Kumar Khorwal remained absent from duty from 8.12.2006 to 9.12.2006 and failed to inform the fact of his unauthorized absence from duty to higher authority. The work papers of the set were unauthorisedly prepared and signed by him in advance and he returned on 11.12.2006 for duty but he has signed in attendance register to show his attendance of 8th and 9th December, 2006. In the absence of Shri Rajendra Kumar Khorwal duties of Mail Guard were performed by Shri Ghanshyam Sharma, Mail Man unauthorisedly without obtaining permission to work as Mail Guard. Admittedly, Shri Ghanshyam received a mail bag of Bayana MDG to Rudawal SO in between 1700 to

1730 hours on 8.12.2006. The Postmaster Bayana MDG remitted cash worth Rs. 20,000/- to Rudawal SO on 8.12.2006 which was enclosed in a sealed leather cash bag in the said mail bag. It is the case of the respondents that the Postmaster Rudawal SO while opening the said Mail Bag, inside Transit bag was in torn condition and the LC bag was in open condition and there was no cash inside the LC bag. The matter was got enquired and the applicants Shri Rajendra Kumar and Shri Ghanshayan Sharma both were found equally responsible for the loss of Rs. 20000/- which was sustained by the department. Accordingly, chargesheet was issued to the applicants. According to the respondents, if the applicant had performed their duties on 8.12.2006 and 9.12.2006 properly such incidence could have been avoided. The applicants were issued chargesheet under Rule 16 of the CCS (CCA) Rules, 1965 for the above lapses and on conclusion of the disciplinary proceedings, the applicant Rajendra Kumar Khorwal was awarded punishment of withholding of one increment for a period of six months without cumulative effect along with Dies Non for the period from 8.12.2006 to 10.12.2006 and a recovery of half of the amount of loss i.e. Rs. 10,000/- whereas in the case of applicant Shri Ghanshyam Sharma the disciplinary authority awarded a punishment of recovery of Rs. 10,000/-. The appellate authority modified the order of punishment of the disciplinary

authority to the extent that recovery of loss was reduced from Rs. 10,000/- to Rs. 5000/- in respect of both the applicants. It is on the basis of these facts, the applicants have filed these OAs thereby praying that the impugned order passed by the disciplinary as well as appellate authority may be quashed and set-aside.

3. Notice of these applications were given to the respondents. The facts as stated above have not been disputed by the respondents. Alongwith the reply, the respondents have placed copy of the statement made by the applicants during the course of enquiry whereby both the applicants have admitted the aforesaid fact that Shri Rajendra Kumar Khorwal has proceeded on unauthorized leave as condition of his son was critical and also the fact that in his place duty was performed by Shri Ghanshyam Sharma without any order from the competent authority. It is also admitted in the statement that no intimation regarding absence from duty was given by Shri Rajendra Kumar. According to the applicant Shri Ghanshyam Sharma the transit bag containing Rs. 20000/- was despatched for destination in proper condition which transit bag was opened at Rudawal Sub Office and thus the loss of the aforesaid amount, if any, happened at Rudawal Sub Office for which the applicant cannot be made responsible.

4. The applicants have filed rejoinder thereby reiterating the submissions so made in the OA.

5. I have heard the learned counsel for the parties and gone through the material placed on record.

6. During the course of arguments, it was contended by the learned counsel for the applicants that in fact the aforesaid amount has been recovered from the officials of Bayana MDG and Rudawal Sub Office, as such, this fact shows that the transit mail bag was sent in proper condition by the applicant Shri Ghanshyam Sharma, therefore, both the applicants cannot be made responsible for loss of the amount and also for the lapses, if any, committed by them.

7. In order to substantiate this oral submission, the applicants were directed to place on record the contemporaneous record which show that the aforesaid amount of Rs. 20,000/- has been recovered from the responsible officials. The applicants have moved MA No.379/2008 and MA No.380/08 thereby stating that the amount of Rs. 20,000/- has been recovered from Shri Ashok Gupta, Postmaster, Rudawal, Shri Hari Ram Nakela, Postmaster Bayana, Shri Ram Prasad, Mail Clerk, Bayana M.D.S. and Shri Ashok Goyal, Cashier, Bayana. The learned counsel for the respondents has also produced for my perusal letter dated 28.11.2008

written by the Superintendent of Post Offices, Dholpur to Senior Superintendent, Railway Mail Service, JP Division, Jaipur whereby it has been stated that the amount in question has been recovered from six officials in the following manner:-

1.	Shri H.R.Nakela	Rs. 5000
2.	Shri H.C.Gupta	Rs. 5000
3.	Shri R.P.Sharma	Rs. 5000
4.	Shri A.K.Goyal	Rs. 4000
4.	Shri Birbal Singh	Rs. 500
5.	Shri Banwari Lal	Rs. 800

The said letter is taken on record.

8. In view of what has been stated above, it is evident that the loss of Rs. 20,000/- has been recovered from the officials who were responsible for managing the affairs of at Bayana MDG and Rudawal Sub Office. This fact shows that in fact it was the officials managing the affairs of Bayana MDG and Rudawal Sub Office who were responsible for the loss of the aforesaid amount and the applicants who were working in at Transit Mail Office, Bayana cannot be held responsible for the loss of the aforesaid amount and there is presumption that the transit bag was properly despatched for destination by Shri Ghanshyam Sharma. Thus, according to me, the recovery of Rs. 5000/- as ordered against the applicant Shri Ghanshyam Sharma and Shri Rajendra Kumar Khorwal is required to

be quashed and set-aside so far it relates to recovery of the aforesaid amount from both the applicants. So far as other penalty of withholding of one increment for a period of six months without cumulative effect along with dies non from 8.12.2006 to 10.12.2006 shall remain operative qua the applicant Shri Rajendra Kumar as admittedly the applicant Shri Rajendra Kumar cannot be completely absolved from the misconduct inasmuch as he has left the office without any prior permission and it was his duty to receive the mail bag and to ensure its proper delivery to Rudawal SO. So far as applicant Ghanshyam Sharma is concerned, his only fault is that he has performed the duties of Shri Rajendra Kumar in his absence being only person available in the transit office. Thus, the conduct of the applicant Shri Ghanshyam Singh cannot be said to be of such nature, which warrant imposition of penalty. Ordered accordingly.

9. With these observations, both the OAs are disposed of with no order as to costs.

10. In view of disposal of the OAs, no order is required to be passed in MA Nos.379/08 and 380/08 which are disposed of accordingly.

(M.L.CHAUHAN)
Judl.Member

R/