

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 23.05.2014

OA No. 192/2013

Mr. Neeraj Sharma, proxy counsel for
Mr. S.K. Singodiya, counsel for applicant.
Mr. Gaurav Jain, counsel for respondents.

Heard learned counsel for the parties.

Order is reserved.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER

Kumawat

DA-29/5/2014

Order pronounced today in the
open court by the aforesaid
Bench.

MKD
29/5/14
(C.O.)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 192/2013

Order Reserved on 23.5.2014

Date of Order: 24.5.2014

CORAM

HON'BLE MR.ANIL KUMAR, ADMINISTRATIVE MEMBER

Narendra Kumar Chandel s/o Shri Kamlapati Rai Chandel, aged about 55 years, resident of D-47, Ganesh Colony, Pilani, Distt. Jhunjhunu (Rajasthan). Presently working as Post Master at Post Office, BITS, Pilani, Distt. Jhunjhunu (Raj.).

.....Applicant

(By Advocate Mr.S.K.Singodiya)

VERSUS

1. The Union of India through Secretary, Ministry of Communication and Information Technology, Sanchar Bhawan, New Delhi.
2. The Chief Post Master General, GPO, M.I. Road, Jaipur.
3. The Superintendent of Post Office, Jhunjhunu Division, Jhunjhunu.

.....Respondents

(By Advocate Mr. Gaurav Jain)

2. ORIGINAL APPLICATION No.193/2013

Jugal Singh Bola s/o Shri Sedu Ram Bola, aged about 52 years, resident of Ward No.3, Hari Nagar, Colony, Pilani, Distt. Jhunjhunu (Raj.) Presently working as Post Master at sub-Post office, Khuharwas, Distt. Jhunjhunu (Raj.)

.....Applicant

(By Advocate Mr.S.K.Singodiya)

VERSUS

3. The Union of India through Secretary, Ministry of Communication and Information Technology, Sanchar Bhawan, New Delhi.

4. The Chief Post Master General, GPO, M.I. Road, Jaipur.

5. The Superintendent of Post Office, Jhunjhunu Division, Jhunjhunu.

.....Respondents

(By Advocate Mr. Gaurav Jain)

ORDER

The applicants have filed the present OA praying for the following reliefs:-

8. That, the applicant prayed that the impugned order dated 12.2.2013 may kindly be quashed and set aside and further the respondents be restrained from making recovery in pursuance of the order dated 12.2.2013 from the applicant.

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2. Since the facts and law points involved in both OA No.192/ 2013 and O.A. No. 193/2013 are similar, therefore, with the consent of parties they are being disposed of by a common order for the sake of convenience. The facts of the OA No.192/2013 are being taken as a lead case.

3. The brief facts of the case as stated by the learned counsel for the applicant are that while the applicant was performing his duties as Assistant Sub-Post Master at Sub-Post Office, Pilani, Distt. Jhunjhunu, a complaint under the provisions of Consumer Protection Act, 1986 was filed by one Shri Malaram and his wife Kamla Devi by alleging therein that they have opened an account under MIS Scheme bearing No. 506569 amounting of Rs. 50000 and MIS No.506570 amounting of Rs.50000. After the period of maturity the amount lying in the above mentioned both the accounts were paid to agent Pankaj Gupta with the collusion of the employees of the Post Office. It has been alleged in the complaint that when the complainants came to know about these facts they sent notice to the department and when they received no response filed complaint before the Consumer Forum, Jhunjhunu. In the reply submitted by the department it was contended that in the departmental inquiry it has come out that the payment was made to

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complainant Malaram on the two dates i.e. 17.1.2006 and 18.1.2006 in the present of witness Pankaj Kumar agent. The learned Consumer Forum vide order dated 28.1.2010 while deciding the complaint directed to the department to make payment of the amount lying in the account of complainants along with compensation of Rs.10,000 in addition of cost of Rs.2000 (Annexure A/2).

4. That feeling aggrieved by the order dated 28.1.2010 passed by the learned Consumer Forum, an appeal was preferred by the department before the State Consumer Dispute Redressal Forum, Jaipur but the same was dismissed vide order dated 4.10.2010. Thereafter, the revision petition has been filed against the said order before the National Commission who remitted back the matter to the State Commission and State Commission decided the matter afresh vide order dated 31.5.2012 and affirmed the order passed by Consumer Forum, Jhunjhunu. In compliance of the aforesaid orders the department has paid the amount as Rs.1,12,000 to the complainant.

5. That thereafter, all of sudden the applicant received a recovery notice dated 12.2.2013 issued by respondent No.3 by which it was informed to the applicant that the applicant as well as one Shri Jugpal Singh Bola (applicant of OA

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No.193/2013) were found responsible for the loss caused to the department , therefore, he was asked to deposit half of the total amount paid to the complainant i.e. Rs. 56000.

6. The learned counsel for the applicant argued that prior to receiving the order dated 12.2.2013 whatsoever, no inquiry was conducted against the applicant and even he was never served any notice. The applicant was never asked to submit any explanation nor he was supplied with any inquiry report. Therefore, the learned counsel for the applicant argued that the order of recovery dated 12.2.2013 (Annexure A/1) required to be quashed.

7. The respondents have filed the reply. In their reply the respondents have submitted that one Shri Mala ram and Smt. Kamla had opened two Monthly Income Scheme (MIS) Accounts at Pilani Post Office in Joint-B category on 14.9.2002. Both these accounts were opened through Shri Pankaj Gupta.

8. That Shri Pankaj Gupta with forged signatures of the depositor Shri Mala Ram got closed the MIS account No.506569 on 17.1.2006 with the collusion of Shri N.K.Chandel the applicant in the present OA and Shri

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Jugal Singh Bola the applicant in the OA No.193/2013 and withdrawn the amount of Rs.50000/-.

9. Similarly, on 18.1.2006 MIS Account No.506570 was closed and the amount of Rs.50000/- withdrawn by Shri Pankaj Gupta by forged signatures of the depositor Shri Malaram.

10. That after taking withdrawal of both MIS Accounts Shri Pankaj Gupta, SAS Agent became absconder. Thereafter Shri Mala Ram made a complaint regarding forged withdrawal from his MIS Account No.506569 and 506570.

11. That on receipt of complaint, an inquiry was conducted through Inspector Post, Chirawa who had conducted inquiry in two parts and submitted his inquiry reports in two parts on 13.12.2006 and 19.3.2007 along with the statements of Shri Narendra Kumar Chandel, Shri Jugal Singh Bhola, and Shri Malaram the depositor.

12. That in the inquiry reports the lapses on the part of the depositor like handing over the pass books of MIS accounts to Shri Pankaj Gupta the SAS Agent and withdrawal forms for monthly interest were reported. The following lapses on the part of Postal Employees Shri Narendra Kumar Chandel

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and Shri Jugpal Singh Bola were also reported in inquiry report (Annexure R/8 and R/9):-

(a)Not compared the signature of the depositor carefully while there was difference in the signatures available on withdrawal forms than the signature available in Post Office record as per provisions of Rule 33(2).

(b)Witnesses of Shri Pankaj Gupta the SAS Agent was taken on the withdrawal form while it was against the provisions of Rule 36(a) of Postal SB Manual Vol.I and identification of depositor not done as per provisions of Rule 36 and 37 of POSB Vol.-I.

(c) On the both accounts payment of Rs.50000 in each account was made through SB Account whileas per orders contained in DG Posts letter No.5-20/UP006/2000 INV dated 29.8.2001 the payment of Rs.20000 or more to be paid by cheque as per requirement of Section 269-T of Income Tax Act.

(d)No written request was obtained from the depositor for debit the amount in his SB account as required vide Rule 31 of POSB Vol.-I.

Both the officials had accepted these irregularities in their statement (Annexure R/10 and R/11).

13. Subsequently, the depositor Shri Malaram filed a case before the District Consumer Protection Forum, Jhunjhunu

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which was decided on 28.1.2010 against the department and the District Consumer Protection Forum had ordered to pay Rs.1,00,000/- for both MIS Accounts along with Rs.10000/- for mental agony and Rs.2000/- for legal expenses. A payment of Rs.1,12,000/- has been made to Shri Malaram. Thus the department sustained a loss of Rs. 1,12,000- for which Shri Narendra Kumar Chandel and Shri J.S.Bola are responsible. To recoup the loss sustained by the department both the officials were asked to credit the amount of Rs.56000/- each willingly vide letter dated 12.2.2013 which is not a recovery order. But the applicants have not replied to this letter nor filed an application to higher authorities instead have filed the present OA. Since, the loss to the department has been caused due to the violation of the provision of rules by the applicants, therefore, recovery from them is justified and there is no illegality or infirmity in the letter dated 12.2.2013 and hence OA has no merit and it should be dismissed with cost.

14. Heard the learned counsel for parties and perused the documents on record. It is not disputed that an amount of Rs.1,12,000 had to be paid to Shri Malaram due to the orders of the District Consumer Protection Forum which was affirmed by the State Forum. Thus the department suffered a loss of Rs.1,12,000/-. The main contention of the learned

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counsel for the applicant is that before issue of the letter dated 12.2.2013, no inquiry was conducted or the applicant was not given any opportunity to submit any explanation. He was not even issued a Show Cause Notice which is the violation of the principle of natural justice. On the other hand, the learned counsel for the respondents submitted that on receipt of the complaint from the depositor Shri Malaram, the matter was got inquired through the Inspector Posts, Chirawa. As per Inquiry Report dated 13.12.2006 and 19.3.2007, the applicants were found responsible for making payment by ignoring the provisions of rules and instructions issued by the Government.

15. The inquiry regarding the facts had already been conducted on 13.12.2006 and on 19.3.2007. They submitted in their written reply in Para 4.6 that the applicants were asked to credit the amount of Rs.56000 each willingly which could not be said to be a recovery order. The applicant were free to credit the amount or submit their representation but the applicant neither submitted any representation nor submitted any appeal. Thus the letter dated 12.2.2013 is not against the principle of natural justice.

16. In view of the submissions made by the respondents, the applicants are at liberty to file representation against

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the letter dated 12.2.2013 within a period of one month from the date of receipt of the copy of this order. If such a representation is submitted by the applicant then it would be decided by the competent authority within a period of two months according to the provisions of law from the date of receipt of such representation. Till such time the representation is decided, the applicant would not be forced to deposit Rs.56000 in reply to letter dated 12.2.2013 (Annexure A/1). It is made clear that in case no representation is filed by the applicants within 30 days as stated above, the respondents would be at liberty to take further action in pursuance to the letter dated 12.2.2013(Annexure A/1).

17. With these directions the OA is disposed of with no order as to cost.

18. A copy of this order be placed in the file of OA No.193/2013 (Jugpal Singh Bola Vs. Union of India and Others).

Anil Kumar

(ANIL KUMAR)
ADMINISTRATIVE MEMBER

Adm/