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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI-5.

O.A. NO. 108 of 1994
T.A. NO.

DATE OF DECISION 20.3.1997

Shri S.N. Das

(PETITIONER(S)

Shri B.K. Sharma

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India and others

RESPONDENT (S)

Shri S. Ali, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE JUSTICE SHRI D.N. BARUAH, VICE-CHAIRMAN

THE HON'BLE SHRI G.L. SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ? yes
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.108 of 1994

Date of decision: This the 20th day of March 1997

The Hon'ble Justice Shri D.N. Baruah, Vice-Chairman

The Hon'ble Shri G.L. Sanglyine, Administrative Member

Shri Surendra Nath Das,
Son of Shri Somin Chandra Das,
Resident of Kahilipara, Guwahati.

.....Applicant

By Advocate Shri B.K. Sharma.

- versus -

1. The Director of Posal Services,
Assam Circle, Guwahati.
2. The Chief Postmaster General,
Assam Circle, Guwahati.
3. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Communication,
New Delhi.

.....Respondents

By Advocate Shri S. Ali, Sr. C.G.S.C.

.....

O R D E R

BARUAH.J. (V.C.)

The applicant, at the material time, was a Sub Post Master of Gopinath Nagar Post Office in South West Guwahati. On 17.11.1992, while the applicant was working as a Sub Post Master of the said Post Office, a number of youths armed with fire arms entered into the Post Office almost at the closing hour. At that time the applicant alongwith his staff were closing the daily accounts. The armed youths decamped an amount of Rs.16,669.50 which was received by way of sale proceeds, etc. on that day. The said amount was kept in the drawer of the applicant's own table. According to the applicant after closure of the accounts, normally the money is kept in a steel almirah, but as the closing of the accounts were yet to be completed the money was kept in the drawer of the applicant's table. When the youths entered into the Post Office

through the back door and forcibly took away the money, the applicant as well as the other members of the staff could not prevent them. As a result the said amount of Rs.16,669.50 was looted by those youths. Immediately after the incident the applicant lodged Annexure-B F.I.R. before the Officer-in-Charge of the Paltanbazar Police Station, which was close by. The said F.I.R. was numbered as Paltanbazar Police Case No.472/92. The matter was also informed to the Superintendent of Post Offices, Guwahati, on the next day. Thereafter, the police commenced investigations. The department also issued a chargesheet under Rule 16 of the CCS(CCA) Rules, 1965, and asked him to submit his reply to the said show cause notice. Pursuant to that the applicant submitted his written reply denying the charges. Thereafter, the authorities imposed a minor penalty, namely, recovery of the amount of Rs.16,000 from the applicant and stoppage of increment for a period.

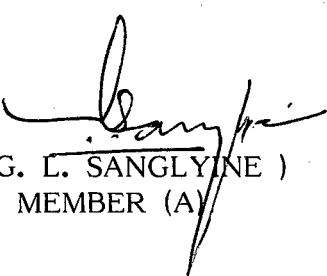
2. Being aggrieved, the applicant preferred an appeal before the Appellate Authority, namely, Chief Post Master General, respondent No.2. The appeal was also in due course disposed of by Annexure-A order dated 10.2.1994. The appeal was partly allowed by setting aside the stoppage of increment. However, the penalty of recovery of the amount of Rs.16000 was upheld. Before this order of the Appellate Authority was passed the applicant approached this Tribunal by filing O.A.No.250/93. The said application was disposed of by Annexure-D Order dated 1.12.1993, with a direction to dispose of the appeal preferred by the applicant and further directed not to realise the penalty amount till disposal of the appeal. Thereafter, the aforesaid order of the Appellate Authority was passed. Hence the present application.

3. We have heard Mr B.K. Sharma, learned counsel for the applicant, and Mr S. Ali, learned Sr. C.G.S.C. Mr Sharma submits that the punishment awarded to the applicant by way of recovery of the amount of Rs.16000 was unreasonable and unfair, inasmuch as the loss of the amount was not because of any fault on the part of the applicant. The authorities have wrongly taken into consideration of the so called negligence that the amount was not kept in the steel almirah for safe custody. The learned counsel further submits that it was the usual practice that after receipt

of any amount by way of sale proceeds or otherwise, the members of the staff first count the money and make entries in the relevant books of the Post Office and only thereafter the amount is kept in the almirah for safe custody. It was at that time those armed youths entered into the Post Office armed with deadly weapons and took away the said money. Neither the applicant nor the other members of the staff could prevent them from taking away the money. There was no negligence, whatsoever, on the part of the applicant or for that matter the entire staff. Mr S. Ali, however, submits that the applicant ought to have kept the money in the safe custody of the steel almirah. The admitted fact is that the occurrence took place in the last part of the working hours. The front door was closed. Only the back door was kept open. This is the general practice in banks and post offices or any other business establishment. It was also not possible for the applicant to keep the money so received in the steel almirah before entering into the records, because, at the time of making the entry physical verification of the money was necessary. It is also an admitted fact that the Post Office was situated in a part house. The other part of the house was occupied by some other persons for residential purpose and it was quite natural for the small children of that residential house to enter into the Post Office. Considering all these, we are of the opinion, that the applicant was not guilty of negligence and even if such negligence was there, the looting was not the result of such negligence.

4. In view of the above facts and circumstances of the case we are of the opinion that the imposition of the minor penalty by way of recovery of Rs.16000 was unjustified and cannot sustain in law. Accordingly the impugned orders, Annexures A and C are set aside.

4. The application is allowed. However, considering the entire facts of the case we make no order as to costs.


(G. L. SANGLYNE)
MEMBER (A)


(D. N. BARUAH)
VICE-CHAIRMAN