

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

O.A.No.344/2013

Ahmedabad, this the 23rd day of February, 2018

Coram :

Hon'ble Dr. K.B.Suresh, Member (J)
Hon'ble Shri K.N.Shrivastava, Member (A)

Shri Patel Rajendrakumar
S/o. Shri Naginbhai Patel
Aged 55 years,
Working as S.P.M. Amod S.O
Residing at : Dajiba Vas Tekro
Near Ramji Mandir
AT : Jambury,
District : Bharuch- 392 150..... Applicant
(Advocate : Ms. S.S.Chaturvedi)

VERSUS

1. Union of India
Notice to be served through
Director General
Department of Posts,
Dak Bhavan, New Delhi-110 001.
2. Chief Postmaster General
Khanpur, Ahmedabad-380 001.
3. The Supdt. of Post Offices
Bharuch Division, Lalbazar, Bharuch.
4. Postmaster General
Office of Postmaster General
Pratapgunj,
Vadodara 390 002..... Respondents
(Advocate : Ms. Prachi Upadhyay)

ORDER (ORAL)**Per : Hon'ble Dr. K.B. Suresh, Member (J)**

We have heard the matters in great detail. We find that the respondents has not produced the Inspector's report which would have shown the extent of infraction of each of the persons involved in it. The Departmental Representative says that even though they considered Principal Offender to be responsible for defalcation, they have taken action under PAD Act and the District Collector at Bharuch has not replied even for 10 years also and therefore they are not sure about whether this amount is recoverable from the Principal Offender or not. Therefore, going by the principles of Debtors and Guarantors, they are now sought to recover rest of money from others who are otherwise responsible also. They did not seek to have established from the records which were placed before us that these particular persons have been in-charge of Dabha Branch Post Office also, as he is in charge of the Bharuch Post Office only from the record produced before us. But the learned counsel submits that process of marginal appropriation indicating that for every payment more than Rs.5000/-, an Inspector will have to go and verify from each of the depositor whether he has received the money or not, but such records are not placed before us. Therefore, we think that

a rethink is now necessary because unless the quantum of infraction is fixed on the shoulder of each of them, the quantum which in view of the matter cannot be fixed. **Quite naturally, it cannot be fixed on the whim and fancy of an officer sitting on the chair and deciding the matter himself on the basis of the capacity to pay each of the employees. We reiterate that it is not on the capacity of the payee that amount to be paid is to be fixed, but only on the basis of the involvement in the infraction.** Therefore, to enable this, we quash all order and remit the matter back to the respondents to decide the matter on the basis of the involvement and degree of involvement in the infraction of each of these persons and then recover the amount from them.

2. We note with regret that for 10 years, according to the respondents the District Collector of Bharuch had remained silent in this matter. We, therefore, direct the Chief Secretary of State of Gujarat to get an explanation from him as public money cannot be wasted in this criminal laches and if they have not acted on the request than there will be serious failing on their part. The Chief Secretary of Gujarat State will therefore, take assistance from the Chief Postmaster General, Gujarat Circle to get from him the details of letters written to the District Collector at Bharuch at various point of time and if then infraction is found on the side of the

District Collector at Bharuch then to take appropriate action under law.
Or if it is otherwise, the Chief Secretary will report on this to the Secretary, Department of Posts.

3. Registry is directed to issue a copy of this order to the Chief Secretary of the Gujarat State and to the Chief Postmaster General, Gujarat Circle, Gujarat.

4. OA is devoid of merits and remitted back to the respondents and therefore, disposed off. No costs.

(K.N.Shrivastava)
Member (A)

(K.B.Suresh)
Member(J)

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