

**CENTRAL ADMINISTRATIVE TRIBUNAL****CHANDIGARH BENCH****OA No. 060/00623/2016****MA. No. 060/00229/2018****Pronounced on :12.03.2018****Reserved on : 26.02.2018****CORAM: HON'BLE MR.SANJEEV KAUSHIK, MEMBER(J)  
HON'BLE MRS. P. GOPINATH, MEMBER(A)**

Faquir Chand son of Sh. Sultan Singh, Supervisor SBCO Rajpura (now posted at Patiala Division, Patiala) and resident of House No. 2C, Block 26, Rail Vihar, Mansa Devi Complex, Sector 4, Panchkula.

.....Applicant

BY ADVOCATE: **Sh. J.K. Khetrpal**

VERSUS

1. Union of India, Ministry of Communications and Information Technology through its Director, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi – 110 001.
2. Chief Postmaster General, Punjab Circle, Sandesh Bhawan, Sector 17 E, Chandigarh -160017.
3. Director Postal Services (HQ) O/o Chief Postmaster General, Punjab Circle, Chandigarh.
4. Sr. Superintendent of Post Offices, Patiala Division, Patiala - 147 001.

.....Respondents

BY ADVOCATE: **Ms. Nidhi Garg**

**ORDER****BY MRS. P. GOPINATH, MEMBER(A):-**

1. Applicant a Supervisor, SBCO, has been imposed with a penalty of recovery of an amount of Rs. 48000 in 16 instalments.

While working as PA SBCO, Patiala Head Office from 01.06.2005 to 28.04.2008, he was entrusted with checking of vouchers in respect of Savings Bank transactions of Amloh Sub Post Office. As per Rule 11 of Small Savings Schemes, the applicant was required to check vouchers and List of Transactions (LoTs) with reference to posting in the computer of SB transactions of Head Post Office, on receipt from SBSO Branch.

2. The allegation against applicant is that he checked the said vouchers with inordinate delay, thereby raising objections of discrepancies after considerable delay. In view of the delay, the minus balance in the Savings Accounts on account of excess withdrawal went on increasing, thereby, facilitating fraudulent withdrawal from Savings Account at Amloh SPO. This being brought to the notice of the competent authority with delay resulted in perpetuating fraud and delayed investigation into cases of excess withdrawal from Savings Account.

3. In the statement of imputation of misconduct, it is stated that the objections have not been raised serially in the objection register and have also not been noted in the voucher as required in Rule 13(1)(i) and 13(1)(ii) of Postal Manual of SB Control contained in POSSS Part IV, thereby contributing to the fraudulent withdrawals in Amloh SPO.

4. The appeal submitted by the applicant was dismissed by the third respondent, and the revision petition was also dismissed by the second respondent. A review petition placed before the President

of India was also dismissed. Applicant also admits in OA that action against other officials responsible for the fraud at Amloh SPO has been taken. Applicant argues that the entire amount fraudulently drawn was recovered by the respondents from one Sh. Avtar Singh and hence, applicant challenges the recovery of the amount from him.

5. Applicant submits that he had already deposited the amount of penalty levied on him in the Government accounts and seeks recovery of the sum so deposited. Applicant's argument is that since the fraud had been committed by the staff of Amloh SPO and hence, the applicant who was responsible for re-checking the transactions of Amloh SPO, should not be made responsible in the case. The relief sought by the applicant is for setting aside Annexures A-8, A-10 and A-12 orders of the Disciplinary, Appellate and Revisionary Authorities.

6. The respondents submit that while the applicant was working as Postal Assistant, Savings Bank Control Organization, Patiala, minus balances were noticed in the Saving Bank Accounts at Amloh Sub Post Office. Such a report of minus balance was received on 01.02.2008 from Sub Post Master, Amloh Post Office along with allegation of cutting in the entries made in Long Book and Savings Bank Account ledgers of Amloh Sub Post Office. Enquiry into the case was entrusted to the Inspector (Posts), Patiala Division. A second report was also received from a second source i.e. Senior Post Master, Patiala, Head Post Office about minus balances in

Saving Bank Accounts at Amloh Sub Post Office. Discrepancies in deposits and withdrawals leading to minus balances in Savings Accounts at Amloh SPO was also reported by the in-charge of the Savings Banks Control Organization, Patiala.

7. During the inquiry, it was observed that a total fraud of Rs. 27,37,902 had been committed at Amloh Post Office for the period 26.11.2005 to 08.12.2007. The circle level inquiry conducted brought to notice that, in many cases, the vouchers had been checked with abnormal delay in Savings Bank Control Organization and action against the delinquent staff of SBCO was recommended. After examination of the role of SBCO staff, applicant was identified as the subsidiary offender in the fraud case and was proceeded against Rule 16 of CCS (CCA) Rules, 1965 and was imposed with the penalty of recovery of Rs. 48,000 in 16 instalments of Rs. 3000 per month. Thus, out of a total fraud of Rs. 27,37,902, the applicant as the subsidiary offender was imposed a penalty of recovery of Rs. 48000.

8. As per provision of Rule 11, Rule 13(1)(i) and 13(1)(ii) of Postal Manual of SB Control contained in POSSS Part IV, lapses were noticed on the part of the applicant in not discharging his duties properly, thereby, resulting in non-detection of fraud at Sub Post Office (SPO) Amloh. The applicant was entrusted with the responsibility to check vouchers and List of Transactions (LoTs) with reference to posting in the computer of SB transactions of SPO Amloh immediately after receipt from Savings Bank Sub Post Office

Branch of the Head Post Office. The applicant having failed to do the checking in time and also not conducting the check properly failed to notice the minus balances in the Savings Account of Amloh SPO. Had he made the checks in time and noticed the irregularities, the fraud could have been averted or the loss checked.

9. The respondents argue that the applicant was punished for lapses in performing his duties which resulted in a loss to the Government. The respondents also argue that perusal of Annexures R-2 to R-5 (Objection Registers) reveals that the objections were raised/entered at a later date in the prescribed register by inserting it in-between the objections already raised in a serial order by interpolating the objection as I and II with the same objection number which was not allowed as per rules. Respondents in para 4(iv) of their reply have given specific instances of such insertion.

10. The respondents submit that the staff of Amloh SPO who have committed the irregularity, have also been proceeded under the disciplinary rules and appropriate punishment in the shape of recovery/dismissal from service has been imposed. The Savings Bank Control Organization has been entrusted with the task of checking the work in the sub-post offices, from the vouchers submitted by the sub post office, which would bring out discrepancies like minus balance in the savings banks accounts. Such misappropriation of Government money by over drawl or allowing drawl from the savings accounts in excess of the balance which are in the nature of a fraud are to be detected by the staff of the Savings

Banks Control Organization which makes a second check of the transactions made. The applicant having failed to point out these irregularities at the time of checking of vouchers of Amloh Sub Post Office or by late checking of such vouchers, prevented a timely intervention to stop such an irregularity and hence failed in performing his assigned duty and caused loss of Government money.

11. The applicant was charged with lapses committed when he was assigned with the task of checking and the check was associated with the period when applicant was posted in the seat. The applicant was assigned the task of checking vouchers of the year 2006 when the fraud was ongoing and hence, he cannot be absolved of the responsibility of not detecting the fraud. Had the applicant detected the over draw leading to the minus balances, he could have raised a red flag, thus, alerting the appropriate authorities about the commission of fraud. The case before the applicant was not an isolated case which overlooked detection, as the fraud had occurred in 20 accounts and misappropriation was for a large amount of Rs. 27,37,902. Hence, neither the number of accounts nor the amount of fraud was so small that it failed to come to the notice of the applicant.

The **Apex Court in UOI & Ors. Vs. Upendra Singh, (1994) 3 SCC 357**, has held as follows:-

“6. In the case of charges framed in a disciplinary inquiry, the Tribunal or Court can interfere only if on the charges framed read with imputation or particulars of the charges, if any, no misconduct or other irregularity alleged can be said to have been made out or the charges framed are contrary to any rules. At this stage, the Tribunal has no jurisdiction to go into the correctness or truth of the charges. The Tribunal cannot take over



the functions of the disciplinary authority. The truth or otherwise of the charges is a matter for the disciplinary authority to go into. Indeed even after the conclusion of the disciplinary proceedings, if the matter comes to court or the Tribunal, they have no jurisdiction to look into the truth of the charges or into the correctness of the findings recorded by the disciplinary authority or the appellate authority as the case may be.”

12. The applicant had been issued a charge sheet and has no argument that he had no opportunity to defend himself. It was for him to prove his innocence before the inquiry officer. That such an opportunity was not provided is not a case of the applicant. It was for him to point out all the factual or financial errors in his case and even convince the disciplinary authority that the finding of the inquiry officer is based on no evidence if that was the case, or that any relevant material was not considered or even overlooked in coming to the conclusion. The applicant had full liberty to prove his innocence of charges and disabuse the disciplinary authority of any impression of misconduct. The applicant has availed of the opportunities provided under the rules and having done so, cannot at this stage, expect the Tribunal to establish his innocence and quash the punishment order.

13. Judicial review is not an appeal from a decision, but a review of the manner in which the decision is made. When an inquiry is conducted on charges of misconduct, or non-performance of duty by a public servant, the Tribunal is concerned with whether the inquiry was held by a competent authority, whether the rules of natural justice are complied with, whether the findings or conclusions are based on some evidence, and the person conducting the inquiry

had reached a finding of fact or conclusion meriting action by the disciplinary authority. The Tribunal does not act in a manner as to re-appreciate the evidence or arrive at its own independent finding. If the conclusion of finding is one such as a reasonable person would have reached, the need for interference would not arise as we hold in this OA. Adequacy or reliability of evidence is not a matter which can be canvassed before the Tribunal, but before the Inquiry Officer.

14. Taking stock of the aforesaid facts and circumstances, we are of the view that there is no need to interfere with the findings of the disciplinary authority or the decision of the appellate authority. We also do not think that the punishment awarded to the applicant is disproportionate to the gravity of the delinquent act or is against the principles of proportionality. OA is dismissed accordingly. MA. No. 060/00229/2018 is also disposed of accordingly. No costs.

**(P. GOPINATH)**  
**MEMBER (A)**

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

Dated:  
**ND\***