

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**  
**OA/050/00612/17**

Date of Order: 20.07.2018

**C O R A M**

**HON'BLE MR. K.N. SHRIVASTAVA, ADMINISTRATIVE MEMBER**  
**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER**

Parmanand Sah, S/o Late Chhedi Prasad Sah, Village & P.O. – Uprama, P.S.- Rajun, District- Banka- 813107.

..... Applicant.

- By Advocate: - Mr. J.K. Karn

-Versus-

1. The Union of India, through the Chief PMG, Bihar Circle, Patna- 800001.
2. The PMG, Eastern Region, Bhagalpur, AT Patna- 800001.
3. The Director of Postal Services, Bhagalpur Region, Bhagalpur At Patna- 800001.
4. The Superintendent of Post Offices, Bhagalpur Division, Bhagalpur- 812001.
5. The Postmaster, Banka Head Post Office, Banka- 813102.

..... Respondents.

- By Advocate(s): - Mr. Arvind Kumar

**O R D E R**  
**[ORAL]**

**Per Mr. K.N. Shrivastava, A.M.:-** The applicant at the relevant point of time was working as PA SBSO under Banka HO of the respondent Postal Department. A minor penalty charge memo vide Annexure A/2 dated 07.04.2017 came to be issued to him with a statement of imputation of misconduct/misbehavior. The imputation of misconduct/misbehavior reads as under:-

“ Shri Parmanand Sah while working as PA SBSO Banka HO for the period from 05.05.2012 to 31.05.2012 is alleged to have not taken action to verify the signature on SB-7 of Purnia SB A/C No.- 1826267 dated 22.05.2012 for Rs. 100000/-, while posting of LT dated 22.05.2012 of Punsia SO with SB-3 Card as per Rules and did not any signature below the signature subsequently denied to have his signature on it and that was forged signature. He also failed to prepare a half margin verification memo in the prescribed form as the balance of the account was more than 5000/- of Single handed SO. He also failed to put half margin verification memo of such withdrawal before APM SBSO duly entered in register maintained for that purpose in SBSO, Banka HO duly indexed serially.

Had be prepared half margin verification memo on the day of posting and sent to ASPOs, Banka for verification instances of fraudulent withdrawal and non credit by the SPM Punsia SOSB/RD/MIS/TD/SCSS of Punis SO could have been detected and Deptt. Could not have suffered a loss to be tune of Rs. 33,18,980/- and fraud could have been averted.”

2. The applicant submitted his reply to the memorandum of charges vide Anenxure A/3 representation dated 25.04.2017 which was followed by a written statement of defence dated 09.05.2017. The Disciplinary Authority after going through Annexure A/3 reply of the applicant as well as the written statement of defence dated 09.05.2017 and being not satisfied with the explanation furnished by the applicant, passed the impugned Annexure A/1 penalty order dated 25.04.2017. The operative portion of the penalty order reads as follows:-

“ I D.K. Jha, Superintendent of Post Offices, Bhagalpur Division, Bhagalpur in exercise of the powers conferred under Rule 12 of CCS(CCA) Rules, 1965; punish the said Shri Paramanand Sah, the then PA, SBSO, Banka HO now SPM, Punisia SO with recovery of Rs. 1,00,000/- (One Lakh only) in 10 (Ten) installments commencing from the pay of May, 2017.”

3. The applicant filed his statutory appeal (Annexure A/5) before the departmental Appellate Authority which was received by the Appellate Authority on 27.06.2017. The appeal has not yet been decided. As delay was taking place at the level of the Appellate Authority in deciding the appeal, the applicant chose to approach this Tribunal in the instant OA under Section 19 of the AT Act praying for the following reliefs:-

“ A. Memo No.: F4-2/12-13 the 24<sup>th</sup> May 2017, issued by Superintendent of Post Offices, Bhagalpur Division, Bhagalpur, as contained in Annexure- A/1, whereby the applicant has been imposed penalty of recovery of Rs. 1,00,000/- from his pay commencing from May 2017 @ Rs. 10,000/- per month in 10 installments, may be quashed and set aside.

B. The recovered amount from the salary of applicant may be directed to be refunded along with admissible interest thereupon.”

4. The Tribunal vide its interim order dated 12.10.2017 granted stay against the ongoing recovery from the salary of the applicant pursuant to the impugned Annexure A/1 order dated 24.05.2017.

5. The case was taken up for hearing the arguments of the learned counsel for the parties today.

6. Shri Karn, learned counsel for the applicant questioned the Annexure A/2 memorandum of charges dated 07.04.2017. He submitted that from a plain reading of this document, it would be evident that it is just a show cause notice and not a memo of charges. He further submitted that after his reply to this show cause notice was received, the Disciplinary Authority was obliged to pass a formal order as to why the explanation of the applicant was not acceptable and only thereafter a properly drafted memo of charges should have been issued to the applicant. We are not convinced with this argument of the learned counsel for the applicant. We notice that Annexure A/2 has been accompanied with an imputation of misconduct/misbehavior. May be the Annexure A/2 document is not happily worded, but reading it in conjunction with the imputation of misconduct enclosed with it, we are of the view that it is indeed a memo of charges.

7. Shri Karn submitted that the statutory appeal of the applicant filed under Rule - 23(2) of CCS(CCA) Rules, 1965 (Annexure A/5) has not yet been disposed by the Appellate Authority. He further stated that several grounds have been raised by the applicant in that appeal against Annexure A/1 penalty order.

8. In this view of the matter, we feel that this OA has been filed without exhausting all the departmental remedies. However, we

also take note of the fact that the Appellate Authority has unduly delayed to decide the appeal filed by the applicant. Hence, we dispose of this OA with a direction to the Appellate Authority to decide Annexure A/5 appeal of the applicant within a period of eight weeks from the date of receipt of a copy of this order by way of passing a reasoned and speaking order. The Appellate Authority shall comprehensively deal with all the points raised by the applicant in the appeal memo comprehensively.

9. We further direct that no further recovery shall be made from the applicant's salary pursuant to Annexure A/1 order till the appeal is disposed of by the Appellate Authority and a month thereafter.

9. We also give liberty to the applicant to approach the Tribunal in case his appeal is not decided by the Appellate Authority within the stipulated period of time for seeking appropriate direction in the matter.

**[Jayesh V. Bhairaiva]**  
**Judicial Member**  
Srk.

**[ K.N. Shrivastava]**  
**Administrative Member**