

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00261/2017

DATED THIS THE 24th DAY OF JANUARY 2019

HON'BLE DR. K.B. SURESH, MEMBER (J)

HON'BLE SHRI CV.SANKAR MEMBER (A)

M.Lokanath,
S/o Late AN.Mariyappa,
Aged about 57 years,
GDS BPM(EX),
Agalagurki BO,
A/w Nandi SO-562103

....Applicant

(By Advocate Shri K.Hanifa)

Vs.

1.Senior Supdt. of Post Offices,
Kolar Division, Kolar-561102.

2. Director of Postal Service,
O/o The Post Master General.
South Karnataka Region,
Bangalore-560 001.

3.The Union of India
Rep. by its Secretary,
Department of Posts,
Dak Bhavan,
Parliament Street,
New Delhi-110 001.

...Respondents

(By Shri V.N.Holla, .Sr. Panel Counsel)

ORDER (ORAL)

DR. K.B. SURESH, MEMBER (J):

1. Heard. The matter relates to embezzlement of money from RD deposits and as also E-Money Orders. The case now put up by the applicant seems to be that there is no evidence of these people who had passed away as he claims that the department did not take any steps to examine either these people or the attestors. But later on he would say that the attestors have been examined by the department. But they say that they are not aware of the exact date of death of the alleged recipients. Nothing prevented the applicant from providing contra evidence as according to rules of evidence it is like a pendulum. There are some things which are essentially burden of the prosecution. But in other cases it is the onus to be proven which only matters. Onus will shift like a pendulum and when attestors were produced and examined to show no such attestation has taken place the contra evidence has to be provided by the applicant only. Therefore, it becomes his responsibility. Having not done so and having examined and found that all the opportunities have been given and natural justice has been scrupulously adhered to, we find that there is no case on the part of the applicant.

2. It is trite that in Postal Department, because of huge volume, fraud is rampant and because of the huge volume, the level of control is also to the minimum. Therefore, the only impediment that

can be put against fraud is deterrence. After discussing the matter with the learned counsel we come to the view that the case put up by the applicant is frivolous and extreme. He had every opportunity to provide contra evidence which he had not taken up. All the attestors who are his witnesses have turned against him and whether the attestors know the exact date of death of the persons who are recipients or the alleged recipients are the benefit from the applicant is neither here nor there. They will know only one thing that they have not attested to applicant's misdeeds. Therefore, we find that applicant's case is covered in frivolity and mischief.

3. Therefore, this is a case in which cost must be imposed. Otherwise Section 35 of the CPC which is the guiding light in this matter will not be satisfied. We heard the applicant on the quantum of cost. Shri K.Hanifa, learned counsel for the applicant would say that applicant had worked for 30 years in the department and the amount involved is only Rs.11000/-. Shri V.N.Holla, submits that what he had been caught at is only Rs.11000/- this time, but that does not mean that it would not be larger amount over the years. He would submit that once a person has decided to go astray and it becomes a habit within and it is a regular feature and because of the way in which the department operates it is very difficult to catch these people. After having heard both the counsels for the quantum of the amount also,

we think cost of Rs.11000/- will be sufficient to meet the ends of justice.

4. Therefore, OA is dismissed with a cost of Rs.11000/-. No order as to costs.

5. At this point of time Shri K.Hanifa would come back and submit that the amount involved is only Rs.5050/- instead of Rs.11000/-. Therefore, we amend the cost. The cost will be Rs.5050/-.

(CV.SANKAR)
MEMBER (A)

(DR. K.B. SURESH)
MEMBER (J)

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Annexures referred to by the Applicant in OA.No.261/2017

- Annexure – A1 - Copy Of leave sanction orders dt. 3.11.14
- Annexure – A2 - Copy Of letter dt. 18.11.14
- Annexure – A3 - Copy Of OM dt. 26.11.14
- Annexure – A4 - Copy Of death certificates of payes dt.27.1.15
- Annexure – A5 - Copy Of memo dt.6.7.15
- Annexure – A6 - Copy Of memo dt. 3.8.15
- Annexure – A7 – Copy Of deposition of PW-5
- Annexure – A8 - Copy Of deposition of PW-6
- Annexure – A9 – Copy Of deposition of PW-7
- Annexure – A10 – Copy Of deposition of PW-8
- Annexure – A11 – Copy Of deposition of PW-4
- Annexure – A12 - Copy Of written brief dt. 8.3.16
- Annexure – A13 - Copy Of written brief dt. 5.5.16
- Annexure – A14 - Copy Of letter dt. 30.5.16 with los report dt.18.5.16
- Annexure – A15 - Copy Of written brief of applicant dt. 18.6.16
- Annexure – A16 - Copy Of memo dt. 26.6.16
- Annexure – A17 - Copy Of appeal dt. 27.6.16
- Annexure – A18 - Copy Of orders dt. 17.10.16

Annexures referred to by the respondents in reply

- Annexure– R1 - Copy of statement of witness-Exp3
- Annexure– R2 - Copy of statement of witness-Exp6

Annexure– R3 – Copy of statement of witness-Exp7

Annexure– R4 – Copy of statement of witness-Exp8

Annexure– R5 – Copy of statement of witness-Exp9

Annexure– R6 - Copy of statement of witness-Exp10

Annexure– R7- Copy of claim application dt.1.12.14

Annexure– R8- Copy of claim application dt.1.12.14

Annexure– R9- Copy of letter dt. 10.12.2014

Annexure– R10- Copy of statement of witness-Exp15

Annexure– R11- Copy of statement of witness-Exp15

Annexure– R12- Copy of statement of witness-Exp28

Annexure– R13- Copy of statement of witness-Exp23