

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00251/2017

DATED THIS THE 19TH DAY OF DECEMBER, 2018

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

HON'BLE SHRI C V SANKAR, MEMBER (A)

R. Shivaramaiah,
Aged 59 years,
S/o Ramanna,
Postmaster Grade-II, Magadi Road PO,
Bangalore – 560 023
Residing at No. 10,
1st Main, Sanjeevininagar,
Hegganahalli Cross, Bangalore – 560 091

.....Applicant

(By Advocate Shri B. Venkatesan)

Vs.

1. The Union of India,
Represented by the Secretary,
Department of Posts,
Dak Bhavan,
New Delhi – 110 001

2. The Director of Postal Services,
Bangalore Region,
O/o the Chief Postmaster General,
Karnataka Circle,
Bangalore – 560 001

3. The Sr. Superintendent of Post Offices,
Bangalore West Division,
Bangalore – 560 086

.....Respondents

(By Shri K. Dilip Kumar, Counsel for the Respondents)

ORDER (ORAL)

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

Heard. We had heard the matter in great detail and examined Annexure-A8 in page No. 57 of the OA which we quote:

*“R SHIVARAMAIAH
Post Master Grade II
Magadi Road,
Bangalore 560 023*

Respected SIR,

*The Senior Supdt of Post Offices
Bangalore West Dn
Bangalore 560 086*

Sub: Disc action under Rule 16 i/c/w/ frauds at HMT SO – reg
Ref: D O Ir no F/4-3/10-11/Disc-6 dated 26.11.15.

Apropos, I have visited Jalahalli HO on 05.12.15 and gone through the process.

*The user code maintenance record, copy of which provided pertains to
Jalahalli H O counter wing where I have worked as D P M from
December 2010 to April 2011.*

Therefore humbly request your good self to provide user code maintenance record containing authorization on the software, print out copy of my pass word usage on the transactions contained in the memo, where I have worked as APM (SO-SB) during the period from FEB 2010 to OCT/NOV 2010.

1. The work was on line. The veracity of PM's say may be got verified with reference to the user code maintenance records of all those officials who worked in SO SB, which I hope will shed light on the authenticity of it as well.

2. Kind enough to provide a copy of USER CODE MAINTENANCE RECORD containing authorization on the soft ware of A P M (SO-SB) for which COMPUTER is said to have been provided as the work of SO-SB was on line. To corroborate and substantiate my defense the extant of the copy is sought, which will go a long way in preparing and placing the defense effectively.

3. The correspondence file maintained at SO-SB branch the period of preservation is well within the time limit. It can certainly throw light on the things, where I have made no. of references to PM and DO as well. And it did contain rulings and correspondence made between various authorities as well.

4. The agreement work was not completed during my tenure at Jalahalli HO which lasted up to 30.04.2011. My query at para 2 *ibid* will remain holds good.

4 a. I affirm that I can answer about SB data only after perusing the record as sought at para 2 *supra* viz user code..... record.

4b. My answer is very much with para 2 *supra*.

The records/documents sought *inter alia* are VERY much relevant and relevance of which are vital to prepare my defense and to prove my innocence and hence the request.

Having said the above, under the said circumstances and facts I request your good self to cause provide the documents cited above to enable me to prepare and submit the defense, please

With thanks and regards,

Yours faithfully"

2. The case of the applicant is that due diligence was not possible because the computer system which was newly introduced was not working and therefore the fraudulent activities of Shri Sudarshan and others could not come to his notice within the limited timeframe he was there. We had asked the learned counsel to justify the stand they have taken in relation to Annexure-A8 which they do not seem to have answered at all. Once such a question is raised by the applicant, it should be justified and explained to the applicant in the absence of which a presumption has to be taken against them. Therefore, there is no merit in the contention of the respondents. Impugned orders are hereby quashed. There cannot be any recovery from the applicant. If any

money has been recovered, it will be paid within one month next without interest and after that with interest at the rate of 15%.

3. The OA is allowed. No order as to costs.

(C V SANKAR)
MEMBER (A)

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

/ksk/

Annexures referred to by the applicant in OA No.170/00251/2017

- Annexure-A1: Copy of the memo dated 09.10.2014
- Annexure-A2: Copy of the letter dated 11.11.2014
- Annexure-A3: Copy of the memo dated 12.02.2015
- Annexure-A4: Copy of the applicant's representation dated 21.02.2015
- Annexure-A5: Copy of the SSPOs letter dated 23.03.2015
- Annexure-A6: Copy of the applicant's representation dated 31.03.2015
- Annexure-A7: Copy of the memo dated 26.11.2015
- Annexure-A8: Copy of the applicant's representation dated 14.12.2015

Annexure-A9: Copy of the memo dated 28.12.2015
Annexure-A10: Copy of the applicant's representation dated 09.01.2016
Annexure-A11: Copy of the applicant's representation dated 27.01.2016
Annexure-A12: Copy of the SSPOs letter dated 27.01.2016
Annexure-A13: Copy of the SSPOs letter dated 01.02.2016
Annexure-A14: Copy of the applicant's representation dated 08.02.2016
Annexure-A15: Copy of the SSPOs letter dated 24.02.2016
Annexure-A16: Copy of the applicant's representation dated 15.04.2016
Annexure-A17: Copy of the applicant's representation dated 11.04.2017

Annexures with reply statement

Annexure-R1: Copy of the memo of distribution of work of Jalahalli Post Office
Annexure-R2: Copy of the extract of register of attendance and fees pertaining to February 2010 to November 2010
