

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIAL BENCH**

OA 2352/2015  
MA 2113/2015

New Delhi this the 17<sup>th</sup> day of January, 2019

**Hon'ble Ms. Nita Chowdhury, Member (A)  
Hon'ble Mr.S.N.Terdal, Member (J)**

Raj Kapoor Sharma-Post –Peon  
S/o Late Sh. Ram Pal Sharma,  
(Aged about 56 years)  
Presently R/o H.No.C-216,  
Gali No.33, Phool Wali Gali,  
South Anarkali, Delhi-110051. ... Applicant

(Present : None )

**VERSUS**

1. Union of India,  
Department of Posts,  
Ministry of Communication,  
Government of India, New Delhi.
2. Sh. Bir Singh,  
Superintendent Post Offices,  
Badaun, Badaun-243601,  
Uttar Pradesh.
3. Sh. Vijay Kumar,  
Inspector, Post Offices,  
Basauli, Badaun-243601,  
Uttar Pradesh.
4. Sh. Raj Bahadur Singh,  
S/o Late Sh.Umrao Singh,  
Inspector Post Offices,  
Sahaswan, Badaun-243601,  
Uttar Pradesh.
5. Sh. Jagdish Prasad Sharma  
S/o Sh. Durga,  
Babraala Postmaster,  
Badaun-243601,  
Uttar Pradesh. ... Respondents

(By Advocate: Mr.Rajinder Nischal )

**O R D E R (ORAL)****(Hon'ble Mr. S.N.Terdal, Member (J):**

We have heard Mr. Rajinder Nischal, counsel for respondents. None appeared for the applicant. Hence, we proceed to dispose of the OA under Rule 15 of the CAT (Procedure) Rules, 1987 after perusing the pleadings and all the documents available on record.

2. In OA, the applicant has prayed for the following reliefs:

- "8.1 to set-aside the impugned dismissal order dated 16.07.2012 which is mala fide, arbitrary, against natural justice and against evidence on record;
- 8.2 to allow consequential reliefs/directions including release of unpaid salary and other prerequisite as if the applicant was neither suspended nor dismissed;
- 8.3 to allow any other relief which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case, in the interest of justice."

3. The relevant facts of the case are that for not depositing the amount of the depositors in the Government account and thereby misappropriating the amount to the tune of Rs.2,50,700/-, a departmental enquiry was initiated against the applicant under Rule 14 of the CCS (CCA) Rules, 1965. Accordingly charge sheet was issued to the applicant vide memorandum dated 26.07.2010. The summary of allegation is extracted below:-

**"Allegation No.1**

That Sh.Rajkapoor Sharma worked as a Night Watchman at Sub-Post Office Sahaswan w.e.f. 06.06.06 to 28.04.07, on the post of Group-D in Sub-Post Office Gunnaur w.e.f. 30.04.07 to 10.10.07, on the post of Group-D in Sub-Post Office Babrala w.e.f. 11.10.07 to 24.08.08 and on the post of TMP Babrala, Bareilly Line w.e.f. 25.08.08 to 27.10.09 and during that period, he also worked unauthorisedly in place of his sister Smt. Vijaylaxmi Sharma, MPKBY Agent and he himself received

the amount monthly from the RD Account Holders in the name of depositing the same in their RD Accounts.

Therefore, by this type of work, the above-named Rajkapoor Sharma violated the Rule 151 of Clause-VI, Module-III of Post Rule Book and Rule 3, 1(i) & (iii) of Central Civil Services.

#### Allegation No.2

That Sh. Rajkapoor Sharma worked as a Night Watchman at Sub-Post Office Sahaswan w.e.f. 06.06.06 to 28.04.07, on the post of Group-D in Sub-Post Office Gunnaur w.e.f. 30.04.07 to 10.10.07, on the post of Group-D in Sub- Post Office Babrala w.e.f. 11.10.07 to 24.08.08 and on the post of TMP Babrala, Bareilly Line w.e.f. 25.08.08 to 27.10.09 and during that period, he also worked unauthorizely in place of his sister Smt. Vijaylaxmi Sharma, MPKBY Agent and he himself received the following amount from the RD Account Holders daily to be deposited in their account and did not deposit the aforesaid amount in the Government Account by forging the entries in the passbooks and by putting the date and stamp of the Post Office on those passbooks and misappropriated the same:-

S.No.	RD Account	Name of depositor	Defrauded amount Rs.
1.	56146	Smt.Sukhdevi and Pyare Lal Yadav	36000.00
2.	56192	Sh.SumanKumar S/o Sh.Chatrapal	25000.00
3.	56193	Sh. Umakant S/o Sh.Hoti Lal	14400.00
4.	56275	Smt.Suman Gupta W/o Sh. Hari Prakash	16200.00
5.	56378	Sh.Hariom S/o Sh. Ganga Sahay	13500.00
6.	56382	Sh.Lal Ram Ande Wale	9000.00
7.	56721	Km.Pragati Sharma and Vineet Kumar Sharma	61600.00
8.	57871	Sh.Khajanchi Lal S/o Sh.Ram Prakash	37500.00
9.	57872	Sh.Om Prakash S/o Sh.Ram Swaroop Gupta	37500.00
		Total defrauded amount Rs.	250700.00

Therefore, it is charged that the above-names Sh.Rajkapoor Sharma defrauded the government fund amounting Rs.2,50,700/- by not depositing the same in the government account. Therefore, by this type of work, the above-names Rajkapoor Sharma violated the Rule 151(2) of Clause-III, Module-VI of Post Rule Book and Rule 3, 1(i) & (iii) of Central Civil Services Rules, 1964."

Alongwith the summary of allegation, statement of imputation of misconduct, list of witnesses and list of documents were served on the applicant. As the applicant did not admit the charge, an Inquiry Officer and the Presenting Officer were appointed vide letters dated 06.12.2010 and 04.04.2011 respectively. The Inquiry Officer conducted the enquiry as per the relevant procedural rules and examined several PWs and DWs and came to the conclusion after discussing the evidence that the charges leveled against the applicant were proved vide inquiry report dated 17.05.2012. The applicant filed his representation against the inquiry report. The disciplinary authority after examining the entire inquiry report and the representation of the applicant and the entire evidence on record, by a reasoned and speaking order passed the penalty of dismissal from service vide order dated 16.07.2012. The applicant preferred an appeal. The appellate authority by reasoned and speaking orders dated 9.02.2015 dismissed the appeal.

4. The respondents in their counter affidavit have categorically stated in para 7 to the effect that there is statutory revision available to the applicant, but, however, he has not filed statutory revision against the order of the appellate authority dated 09.02.2015 and that without exhausting statutory remedy available, he has rushed to the Tribunal.

5. In view of the specific averment made by the respondents which has been brought to our notice by the counsel for respondents, the present OA is pre-mature and hence requires to be dismissed as pre-mature. After exhausting the available statutory remedy, the

applicant if so advised may take recourse to the remedy available to him under law.

6. Accordingly, OA is dismissed. No order as to costs.

**( S.N.Terdal )**  
**Member (J)**

**( Nita Chowdhury )**  
**Member (A)**

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