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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. 1227/2003

New Delhi this the 4th day of March 2004

Hon'ble Shri S.A. Singh, Member (A).~
Hon'ble Shri Bharat Bhushan, Member (J).

J.P. Mishra,
S/o Shri Surendra Pd. Mishra,
Postal Asstt.
Shahganj Post Office,
Agra. ... Applicant.

(By Advocate Shri D.P. Sharma)

Versus

1. Union of India through
Secretary,
Ministry of Communication,
Department of Posts,
Dak Bhawan Sansad Marg,
New Delhi.
2. The Director Postal Services,
O/o the Postmaster General
Agra Region - Agra.
3. The Sr. Superintendent Post Offices,
Agra Division, Agra. ... Respondents.

(By Advocate Shri S.M. Arif)

O R D E R

Hon'ble Shri Bharat Bhushan, Member (J).

This application under Section 19 of the
Administrative Tribunals Act, 1985 has been filed by the
applicant seeking the following reliefs:-

"That the impugned order of recovery Annexure
A-1 and appellate order Annexure A-1 (a) may
kindly be quashed and set aside, and the amount
recovered on the basis of the impugned order may
kindly be ordered to be refunded to the
applicant with interest at market rate (0) 12%
per annum.

That any other benefit or relief which in the
circumstances of the case deemed fit and proper
be awarded to applicant.

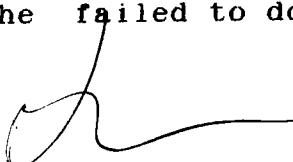
That the cost of the suit be awarded to the
applicant.



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2. It is the case of the applicant that he was a Postal Assistant in the Postal Department and was posted in Agra Division and on 11.4.1997 he was transferred from the office of Respondent No.3 and was ordered to work as P.A. Agra Fort HQ. He was detailed to work as Correspondence Clerk-I and his duty was to maintain the order book and to issue orders/instructions under directions and signature of the Post Master. He was also required to maintain the daily nominal roll of Assistant Post Masters and P.As as to where they worked on particular days. He also had to attend correspondence relating to establishment and to work under the instructions/directions of the Post Master.

3. It is alleged by the Respondents that the Department had suffered a huge loss of Rs.14,40,000/- on the basis of missing Money Order Vouchers amounting to Rs.13,80,000/- and three bogus money orders amounting to Rs.60,000/- while an FIR was lodged on 22.7.1998 on Rakab Ganj Police Station, Agra. According to the Respondents, one Shri V.V. Singh LRPA working in the same office was also a party to the said fraud. And the simple allegations against the applicant are that he had failed to properly utilize Shri V.V. Singh in his work, which ultimately resulted in Shri V.V. Singh committing such fraud. Ultimately, however, charge-sheet dated 25.5.2000 under Rule 16 of the CCS (CCA) Rules, 1965 was issued to him by the respondents stating therein that he was alleged to have committed a grave misconduct inasmuch as he failed to do the proper and regular

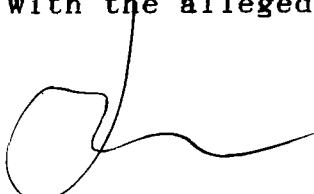


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utilisation of Shri Vijayant Vikram Singh, LR PA Agra Fort HQ by not engaging him in leave arrangement. But it is the case of the applicant that in the said Money Order Paid Branch there were 3 PAs and their work was supervised exclusively by one Assistant Post Master and all the powers of Post Master were delegated to him and the Post Master, Agra Fort was the over all incharge of Assistant Post Masters and other staff. But the Disciplinary Authority eventually inflicted the punishment of the recovery of Rs.36,000/- upon the applicant and this was ordered to be recovered in 36 monthly instalments of Rs.1000/- each from his pay, vide order dated 10.5.2001 (Annexure A-1). The said order is impugned before us. The appeal filed against the said order was also dismissed by Respondent No.2 on 24.3.2003. Hence feeling aggrieved the applicant has approached this Tribunal.

4. We have heard the arguments of the learned counsel for the parties and perused the records.

5. At the outset, the learned counsel for the applicant has submitted that this is a case of total non application of mind by the disciplinary authority as also the appellate authority. According to him, no reasons or justification whatsoever have been shown as to how and under what circumstances the recovery of Rs.36,000/- was to be effected from the salary of the applicant. Taking us through the impugned order as also the order passed by the appellate authority, the learned counsel submits that there is not even a whisper regarding the involvement directly or indirectly of the applicant with the alleged fraud. It has further been

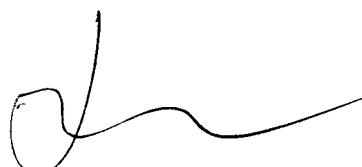


argued that neither any link, complicity or connivance of the applicant is alleged in any manner. According to him, unless some lapses on the part of the applicant or his link with respect to the losses allegedly suffered by the Post Office are brought on record, the action of the respondents in inflicting punishment on mere surmises or conjectures is unsustainable in support, he has also placed reliance upon a ruling of the Cuttack Bench of the Tribunal in the case Satyabadi Barik Vs. Union of India & Ors., (O.A. 270 of 1991), decided on 8.12.1994 (Annexure A-6), wherein too the recovery order passed by the disciplinary authority was held to be invalid since in that case too no negligence on the part of the Government servant or the lapses on his part or the link with the loss sustained by the Government servant was proved by the respondents.

6. Here in our case too, the disciplinary authority in the impugned order (Annexure A-1) while mentioning in detail the huge losses to the extent of Rs. 14,40,000/- suffered by the Department of Posts on account of the fraudulent payment of high value bogus MOs has simply in the concluding para of the three page order mentioned as follows:

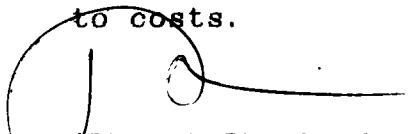
"....Therefore, I V.K. Verma, Sr. Supdt. of Post Offices, Agra Division, Agra order to recover Rs. 36000-00 from the pay of Shri J.P. Mishra in 36 instalments of Rs. 1000/- each. Recovery shall commence immediately".

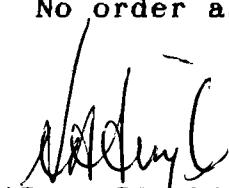
Hence, the perusal of the said impugned order running into three pages passed by the disciplinary authority does not show that the disciplinary authority or the appellate authority had found any nexus, connivance or link with the losses sustained by the



Government. It has also not been explained by the respondents as to what were the lapses on the part of the applicant due to which the Government suffered huge losses and how and in what manner they have arrived at the figure of Rs.36000/- which is the penalty imposed upon the applicant. There is no doubt that the penalty of recovery of pecuniary losses caused to the Government by the negligence on the part of the Government servant can be imposed but such penalty can be imposed only when it is established that the Government servant was responsible for the particular act or that it had resulted on account of negligence or breach of orders or Rules on his part. It is, therefore, obligatory that the charge-sheet also should be quite elaborate and it should not only indicate clearly the nature of the lapses on the part of the particular official but also mention modus operandi of the frauds committed if any by the official. But the case in hand appears to be the one where none of the ingredients of that sort has been fulfilled by the respondents. This being so, in our opinion the O.A. needs to be allowed and is thus hereby allowed. The orders passed by the disciplinary authority as also the appellate authority are hereby quashed and set aside. The respondents are directed not to effect any further recovery from the salary of the applicant and the recovery already effected, if any be refunded to him within a period of two months from the date of receipt of the copy of this order. No order as

to costs.


(Bharat Bhushan)
Member (J)


(S.A. Singh)
Member (A)

“SRD”