

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BENGALURU**

ORIGINAL APPLICATION NO.170/001813/2018

DATED THIS THE 08TH DAY OF NOVEMBER, 2019

**HON'BLE DR.K.B.SURESH
HON'BLE SHRI C.V. SANKAR**

**...MEMBER(J)
...MEMBER(A)**

Shri G.T. Mathapati,
S/o Thippayya,
Aged about 61 years,
Retired LSG P.A.,
Chitradurga HO-577 501
Residing at "Spoorthi",
BVKS Layout,
2nd Main, 3rd Cross,
Chitradurga HO-577 501.Applicant.

(By Advocate Shri P. Kamalesan)

V/s.

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

2. Chief Post Master General,
Karnataka Circle,
Bengaluru-560 001.

3. Post Master General,
S.K. Region,
Bengaluru-560 001.

4. Senior Superintendent of Post Offices,
Chitradurga Division,
Chitradurga-577 501.Respondents

(By Shri V.N. Holla, Standing Counsel for Respondents)

ORDER (ORAL)**HON'BLE DR.K.B.SURESH** **...MEMBER(J)**

Heard. The matter in a nutshell is that while one Shri Shanmugam had more role to play in the defalcation, was allowed to go scot free, after the department had misunderstood the interpretation of the Rule, which we now quote:

PROCEDURE IN HEAD OFFICED IN RESPECT OF WITHDRAWALS AT SUB OFFICES

(a) *Withdrawals from departmental sub offices and withdrawals of amounts not exceeding Rs.5000 from ED sub offices: When the amount of a withdrawal is paid by a sub office or EDSO (amount not exceeding Rs.5000), the amount paid will be shown in the list of transactions by that office and the charge will be supported by the warrant of payment duly signed by the person to whom payment was made and the PA/SPM who passed the payment. The Ledger Assistant in SOSB at HO should enter the withdrawal in the concerned account through the System Software SOSB Module and compare the balance after transaction entered by the depositor/PA/SPM on the SB-7 with that in the computer. He will initial the entry in the LOT in token of having posted the same in the account. The signature of depositor on the application should also be compared by him with the specimen in the application form and signature of the person who received payment on the warrant in respect of withdrawals made in sub offices below LSG and if the amount of withdrawal exceeds Rs.5000/- in case of withdrawals made at departmental sub offices below the LSG, the Postmaster should also compare the signature of the depositor and sign below it. The Postmaster will check the posting on the System Software through Super>>verify LOT option and can make corrections in case of any discrepancy in 'Ledger Correction' option.*

1:- In order to carry out the above check the ledger Assistants will be supplied a list of single handed sub offices and other time scale sub offices

2:- The application for withdrawal and the warrant of payment of illiterate depositors should be examined to see that the mark or thumb impression of the depositor has been attested in the manner laid down in rule 36.

2. But then, Shri V.N. Holla, learned counsel for the respondents produces explanation of the Rule. We after discussion, think that what is said is that: **The Ledger Assistant in the SOSB at HO should enter the withdrawal in the concerned account through the system Software SOSB module and compare the balance after transaction entered by the depositor/PA/SPM on the SB-7 with that in the computer.**

3. Therefore, the contention raised by Shri Kamalesan, learned counsel for the applicant being that the applicant will be responsible only if the amount concerned are less than Rs.5,000/- and in that case only the responsibility falls on him, cannot be accepted. The only question is that the respondents having given the benefit to Shri Shanmugam, whether it is ipso facto to be extended to him as well. But then Shri Holla submits that there cannot be any equality in illegality under Article 14. Hon'ble Apex Court has clearly laid down that there cannot be equity and equality under Article 14 to be made applicable in the case of illegality.

4. Apparently, respondents had committed an illegality in Shri Shanmugam's case. They may re-open this matter at their leisure and do whatever they want to do. But that will not improve the case of the applicant. Applicant has a responsibility to check and he having failed, let him now face the consequences. OA therefore fails. Dismissed. No costs.

(C.V. SANKAR)
MEMBER(A)

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

Annexures referred to by the Applicant in OA No.170/001813/2018

1. Annexure A1 : Copy of Supt. Of Post Offices, Chitradurga letter dated 02.11.2011.
2. Annexure A2 : Copy of CAT order dated 20.6.2013 in OA.463/2011.
3. Annexure A3 : Copy of Supt. Of Post Offices, Chitradurga letter dated 17.11.2017.
4. Annexure A4 : Copy of representation of applicant dated 24.11.2017.
5. Annexure A5 : Copy of representation of applicant dated 18.12.2017.
6. Annexure A6 : Copy of Supt. Of Post Offices, Chitradurga letter dated 20.3.2018.
7. Annexure A7 : Copy of representation of applicant dated 26.3.2018.
8. Annexure A8 : Copy of Supt. Of Post Offices, Chitradurga letter dated 26.3.2018.
9. Annexure A9 : Copy of representation of applicant dated 27.3.2018.
10. Annexure A10 : Copy of Supt. Of Post Offices, Chitradurga letter dated 31.3.2018.
11. Annexure A11 : Copy of representation of applicant dated 2.4.2018.
12. Annexure A12 : Copy of Supt. Of Post Offices, Chitradurga letter dated 2.4.2018.
13. Annexure A13 : Copy of Supt. Of Post Offices, Chitradurga letter dated 13.2.2018.
14. Annexure A14 : Copy of Post Master, Grade-III Head Post Offices, Chitradurga letter dated 13.2.2018.
15. Annexure A15 : Copy of Dept. of Post letter dated 17.4.2015.
16. Annexure A16 : Copy of representation of applicant dated 18.7.2018.
17. Annexure A17 : Copy of Supt. Of Post Offices, Chitradurga letter dated 12.9.2018.
18. Annexure A18 : Copy of DoPT letter dated 8.12.2017..

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