

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2505 of 2016

- =====
1. The Union of India through the D.G. cum Secretary, Department of Posts, Dak Bhawan, New Delhi.
 2. The Chief Postmaster General, Bihar Circle, Patna.
 3. The Postmaster General, North Region, Muzaffarpur.
 4. The Director of Postal Services (Northern Region), O/o the Postmaster General, Northern Region, Muzaffarpur.
 5. The Superintendent of Post Offices, Purnea Division, Purnea.

.... Petitioner/s

Versus

Narendra Kumar, Son of Late Dashrath Prasad Mandal, Resident of Mohalla - Ram Nagar, P.O. - Polytechnic Purnea, P.S. - Khajanchi Haat, District - Purnea.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar(ASG)

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 16-02-2016

Heard Sri Sanjay Kumar ASG, for the petitioner.

Post office is aggrieved by the judgment and order of the Central Administrative Tribunal, Patna Bench, Patna dated 30.07.2015, passed in O.A. No. 813 of 2013 (Narendra Kumar Vs. The Union of India and others). The sole respondent Narendra Kumar, who was an employee of the Postal Department, was proceeded for punishment under Rule 16 of the CCS (CCA) Rules, 1965, on grounds of negligence in performing his duty. After following the procedure, the Disciplinary Authority not only passed order of punishment of



withholding one increment of pay for three months without cumulative effect, but also added recovery of amount of Rs. 1 lac being part of the amount which was lost by the Government allegedly because of his and other employees' negligence. It is not a case of any embezzlement. The Tribunal set aside the order of recovery while upholding the order of punishment. The Tribunal was of the view that the charge did not speak of any amount that could be recovered nor it even specifies the amount of loss caused to the Government, therefore, when the employee was found guilty he could have been punished by one of the punishments as stipulated in Rule 11 but if the authorities wanted to apportion any amount of recovery which is permissible under Rule 11 as it is mere compensation, then it was incumbent upon the Disciplinary Authority to notice the delinquent in that regard so that he could appropriately defend himself. In our view the Tribunal was correct, for, it is well established that before a person can be made liable by way of a punishment or by way of creation of a civil liability he must be specifically noticed in this regard so that he may defend himself. All we can say is quoted from paragraph 16 of the judgment of the Apex Court in the case of S.L. Kapoor Vs. Jagmohan and others since reported in AIR 1981 Supreme Court 136 :

“The requirements of natural justice are met only if opportunity to represent is given in view of proposed action. The demands of natural justice



are not met even if the very person proceeded against has furnished the information on which the action is based, if it is furnished in a casual way or for some other purpose. The person proceeded against must know that he is being required to meet the allegations which might lead to a certain action being taken against him. If that is made known the requirements are met.

Having considered the matter, the respondent has never been noticed in regard to the order of recovery that may be passed against him. The order in that regard even though amounting to an order of compensation could not be passed as it has severe adverse consequences on the delinquent.

We thus find no merit in this writ application.

This writ application stands dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh

U			
---	--	--	--