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THE HON'BLE MR. B.R. PATEL, VICE CHAIRMAN

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THE HON'BLE MR. K.P. ACHARYA, MEMBER (JUDICIAL)

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J U D G M E N T

K.P.ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the order of punishment removing the petitioner from service is under challenge.

2. Succinctly stated, the case of the petitioner is that he was a driver of a jeep placed under the disposal of Respondent -Opposite Party No.3 i.e, the Senior Superintendent of Post Offices, Eastern Division, Berhampur within the district of Ganjam. It is alleged against the petitioner that on 19.11.1985 the petitioner took the jeep to Paralakhemundi without the permission of the competent authority and while he was returning with the jeep from Paralakhemundi to Berhampur on 20th November 1985, the jeep met with an accident, while it was being driven by the petitioner near about the village Padmatola. Ofcourse the matter was reported at the Police Station and the police officer took cognizance of the offence committed by the petitioner as contemplated under the Indian Penal Code. Thereafter charge-sheet was submitted and the matter was compounded in court as the victim had not sustained any grievous injury. A departmental proceeding was initiated against the petitioner on an allegation that the petitioner had misused the Government vehicle and had used it for his private purpose without taking necessary permission from the competent authority. Hence charges were delivered to the petitioner and the petitioner while submitting his show-cause pleaded guilty to the said charge. The

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Inquiry Officer found the petitioner guilty of the charges and accordingly delivered his findings to the disciplinary authority who concurred with the findings of the Inquiry Officer and ordered reduction of pay of the petitioner from Rs.278/- to Rs.272/- as a measure of penalty- which means reduction of pay by one stage only. The petitioner did not prefer any appeal but the Additional Post Master General of Orissa acting as the reviewing authority reviewed the matter and came to the conclusion that the penalty imposed on the petitioner was lenient and inadequate. Notice was given to the petitioner to show cause as to why the penalty should not be enhanced. The petitioner submitted his show cause and the reviewing authority considered the matter afresh and directed removal of the petitioner from service, vide Annexure-6. Being aggrieved by this order of punishment, the petitioner has invoked the jurisdiction of this Bench with a prayer to quash the order of punishment.

3. In their counter , the opposite parties, respondents maintained that no illegality having been committed by the reviewing authority and adequate punishment having been awarded by the reviewing authority, this Bench should not lay its hands for interference. It is further maintained by the Opposite Party that since the application is devoid of merit, the same should stand dismissed.

Dr.

4. We have given our anxious consideration to the argument advanced by the learned Sr. Standing Counsel. Even though it was urged by the learned counsel for the petitioner that the order of punishment passed by both the authorities should be quashed and the petitioner be exonerated from the charges, we do not find any justifiable reason to accept this argument advanced on behalf of the petitioner because the conviction against the petitioner has been based on his plea guilt put forward by the petitioner. In the peculiar circumstances of a particular case, the plea of guilt could be set aside if the law has not been complied but in the present case, we do not find any illegality to have been committed during the course of enquiry or the plea guilt and therefore we find that the Inquiry Officer was perfectly right in finding the petitioner guilty namely, on the plea of guilt put forward by the petitioner. Therefore, we find no merit in the contention of the learned counsel for the petitioner to exonerate the petitioner from the charges.

5. This case solely hinges on the question of sentence, namely, whether adequate punishment was given by the disciplinary authority or lenient view on the question of ²/₁ sentence having been taken by the disciplinary authority - whether the enhancement of sentence to the extent of removal from service is justified. No doubt, the learned Sr. Standing Counsel supported the case of

respondents - Opposite Parties that the order of removal from service is justified but after giving our anxious consideration to the argument advanced by the counsel for both sides, we are of opinion that the disciplinary authority had taken an extremely lenient view on the question of sentence. We cannot but dis-approve and express our strong dis-pleasue in the act of the petitioner committed by him in using the Government vehicle for private purposes which clearly amounts to mis-use. The extenuating circumstances over which the petitioner's counsel pleaded for a lenient view to be taken on the question of sentence is that the petitioner had no other option but to use the vehicle for his private purpose because one of his relation was very seriously ill at Paralakhemundi. Her immediate removal was eminent and therefore mind of the petitioner did not work in proper time and getting the news of serious illness of his relation, the petitioner lost his balance of mind. True it may be so, but there stood nothing on the way of the petitioner at least to orally inform some of his authorities available at Berhampur Station so that matters could have been regularised after the arrival of the petitioner at Berhampur. We also cannot overrule the contention of the learned counsel for the petitioner that in emergent situation and circumstance^s with which the petitioner was confronted, the petitioner might have lost his balance of mind but the directives of the Government cannot be thrown out. In these circumstances stated above, making out ^a the case of the

the extenuating circumstances which existed in favour of the petitioner, we also feel that the penalty imposed by the competent authority removing the petitioner from service is also too severe. Taking into consideration the plea of guilt put forward by the petitioner and the extenuating circumstances mentioned above, we feel that ends of justice would be met if the order of removal of the petitioner from service is set aside and a penalty higher than what has been imposed by the disciplinary authority is imposed on the petitioner. Therefore, we direct that as a measure of punishment the pay of the petitioner should be reduced by two stages without cumulative effect. Apart from the aforesaid penalty to be imposed on the petitioner, we would direct that the petitioner should pay to the Government the hiring charges including the propulsion cost, etc. according to rules, if not already paid, for having taken the vehicle to Paralakhemundi and bringing it back to Berhampur. This amount should be deducted from his pay after he joins service and it should not be construed as a measure of punishment because every Government servant is liable to pay the cost of using the Government vehicle for his private use. Thus, Annexure-6 containing the order of removal of the petitioner from service is hereby quashed and we would direct that the petitioner be reinstated into service. The petitioner should be reinstated to service within one month from the date of receipt of a copy of the judgment. We would specifically make it clear that the petitioner shall not be entitled to any back wages and the

period occupied from the date of removal of the petitioner from service till the date of reinstatement should be treated as dies-non.

6. Thus, the application is allowed leaving the parties to bear their own costs.

[Signature]
 26.6.87.
 Member (Judicial)

B.R. PATEL, VICE-CHAIRMAN,

I agree.

[Signature]
 26.6.87..
 Vice-Chairman



Central Administrative Tribunal,
 Cuttack Bench, Cuttack
 June 26, 1987/ Roy.