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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

ORIGINAL APPLICATION No. 190 OF 1986

Date of decision .. October 30, 1987

Sri Pitabas Behera, son of Sri Padma Charan Behera,
Ex. E.D.Sub Postmaster, Vill/ P.O. Sadangi, Dist-Dhenkanal.

.... Applicant.

Versus

1. Union of India, represented by the Postmaster General, Orissa Circle, Bhubaneswar.
2. Director of Postal Services, Sambalpur Region, Sambalpur.
3. Superintendent of Post Offices, Dhenkanal Division, Dhenkanal.

.... Respondents.

M/s.P.V.Ramdas & B.K.Panda,
Advocates

... For Applicant.

Mr. A.B.Misra, Sr. Standing Counsel ... For Respondents.
(Central)

C O R A M :

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

A N D

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

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1. Whether reporters of local papers may be allowed to see the judgment ? Yes .
 2. To be referred to the Reporters or not ? No.
 3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes .
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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 applicant challenges the order passed by the competent authorities removing the applicant from service, vide Annexure-3.

2. Shortly stated, the case of the applicant is that he was appointed as EDSPM of Sadangi Post Office within the district of Dhenkanal. While serving as such, one Kangali Sahu delivered Rs.100.00 to the applicant out of which Rs.80.00 was to be credited to S.B. Account No. 940043 operated by the said Kangali Sahu and Rs.20.00 was to be credited to S.B. Account No. 940043 which stood in the name of Satyabhama Sahu, minor daughter of the said Kangali Sahu. It was alleged against the applicant that though he made necessary entries in both the pass books in token of having received Rs.100.00 but while submitting the account sheets to Dhenkanal Head Post Office, he did not account for Rs.80.00 though he had stated in the account sheets the fact of having received Rs.20/-. The amount in question was admittedly delivered by Kangali to the petitioner on 18.8.1984. The above amount of Rs.80.00 not having been accounted for, the Postmaster of Dhenkanal Head Post Office detected this discrepancy and had called upon the petitioner to explain the circumstances under which Rs.80/- was not accounted for. The explanation having been found to be unsatisfactory, a departmental proceeding was initiated against the petitioner for having contravened the provisions

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contained in Rule 673 (a) of P & T Manual Vol.VI Part- III read with Rule 17 of P & T ED Agents (Conduct & Service s) Rules, 1964. After due inquiry, it was found that the petitioner was guilty of the charges and the disciplinary authority concurred with the findings of the Inquiry Officer and ordered removal of the petitioner from service contained in Annexure-3 which is under challenge.

3. In their counter , the respondents have maintained that the applicant had committed temporary mis-appropriation of the said amount and during inquiry principles of natural justice having been strictly followed, the applicant cannot claim any prejudice and therefore the Tribunal should not lay its hands for interference and unsettled the punishment awarded to the petitioner.

4. We have heard Mr. P.V.Ramdas , learned counsel for the applicant and the learned Sr. Standing Counsel Mr. A.B.Misra for the Central Government at some length. The fact that Kangali Sahu had delivered Rs.100.00 to the petitioner on 18.8.1984 is admitted and entry made by the applicant in two different passs books acknowledging the receipt of Rs.100/- is also admitted. The fact that Rs.80/- and Rs.20/- was accounted for in the account sheet sent to the Head Post Office at Dhenkanal is also admitted but it was pleaded on behalf of the applicant that by mistake the applicant could not

send Rs.80/- to the Head Post Office at Dhenkanal though Rs.20/- had been sent to the Head Post Office. It was pleaded on behalf of the applicant that there was absolutely no mensrea on the part of the applicant and by mistake this amount was not sent to the Head Post Office . It was further submitted by Mr. P.V.Ramdas that on 11.10.1984 the applicant having been informed that Rs.80/- was not sent to the Head Post Office , the petitioner admittedly deposited the same on 12.10.84. In view of the aforesaid circumstances, we are of the view that mistake on the part of the petitioner in not sending the amount of Rs.80/- cannot be over-ruled. Therefore, we would hold that the prosecution has failed to bring home the charge against the applicant and we do hereby exonerate the applicant of the charge and he is acquitted there from . We would further direct that the applicant be reinstated into service within two months from the date of receipt of the copy of this judgment.

5. Thus, the application stands allowed leaving the parties to bear their own costs .

By order
30/10/87
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Member (Judicial)

B.R. PATEL, VICE CHAIRMAN

9 agree



Central Administrative Tribunal,
Cuttack Bench.
October 30 , 1987/Roy SPA.

By order
30.10.87
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Vice Chairman.