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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.172 of 1987

Date of decision: 4th May, 1989

1. Sri Nrusingha Das, S/o Late Damodar Dash
Village Balapur, Via-Satasankha,
Dist. Puri.

.... Applicant

-Versus-

1. Union of India
represented by the
Postmaster General,
Orissa Circle, Bhubaneswar

2. Senior Superintendent of Post Offices,
Puri Division,
At/P.O./P.S.Puri,
Dist. Puri.

3. Sub-Divisional Inspector (Postal),
Jatni Sub-Division,
At/P.O./P.S.Jatni,
Dist. Puri.

.... Respondents

For the Applicant Mr. P. V. Ramdas
B. K. Pahda

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

C O R A M :

THE HON'BLE MR. B. R. PATEL, VICE-CHAIRMAN
AND
THE HON'BLE MR. K. P. ACHARYA, MEMBER (JUDICIAL)

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

:- JUDGMENT :-

K.P. ACHARYA, MEMBER (J)

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In this application under section 19 of the Administrative Tribunal's Act, 1985 the order passed by the Competent Authority removing the petitioner from service vide Annexure-4 is under challenge.

2. Shortly stated the case of the petitioner is that while he was functioning as Extra Departmental Delivery Agent in Balapur Branch Post Office within the Dist. of Puri, A sum of Rs. 120/- being the amount payable to one Tara Bewa under a money order was entrusted to the Petitioner on 10th October, 1981 for disbursement. It was alleged against the petitioner that he did not make payment to Tara Bewa on 10th October, 1981 and that he has forged the L.T.I. of Tara Bewa showing payment on 10th October, 1981 but in fact payment was made to Tara Bewa on 23rd October, 1981. A set of charge was delivered to the petitioner and a full fledged enquiry was conducted, after which the enquiring Officer found that the charge had been established and accordingly he submitted his findings to the Disciplinary authority who in his turn concurred with the findings of the Enquiring officer and ordered removal of the petitioner from service which is under challenge.

3. In their Counter the Opposite parties ^{main tained} _{mentioned} that the case being one of full proof evidence and principles of natural justice not having been violated in any manner whatsoever ~~and therefore~~ the order passed by _{them}

the Disciplinary authority should not be unsettled rather it should be sustained. The case being devoid of merit and is liable to be dismissed.

4. We have heard Mr. P. V. Ramdas learned Counsel for the Petitioner and Mr. A. B. Misra, Learned Senior Standing Counsel (Central) at some length. Mr. Ramdas submitted that Tara Bewa not having been examined, due to her death by the date of commencement of the Enquiry and her L.T.I. not having been compared by a Finger Print expert with that of the admitted L.T.I. it could not be said with utmost certainty that the prosecution has been successful in proving the charge against the delinquent officer. Further submission of Mr. Ramdas was that in a similar case reported in A.T.R. 1987.

(1) C.A.T.129 (Padnav Arup-Vs-Union of India and other) benefit having been given to the delinquent officer due to similar laches on the part of the prosecution, the same benefit should be given to the petitioner by this Bench.

5. We do not propose to go into the details of this aspect but the fact remains that the amount in question has been admittedly paid to Tara Bewa on 23.10.81. The paltry amount of Rs.120/- having been admittedly paid to Tara Bewa on 23rd October, 1981 we cannot subscribe to the view that an extreme penalty is called for rather it is un-warranted. In such circumstances while maintaining the order passed by the Disciplinary authority regarding the

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guilt of the petitioner we would hereby set aside the order of removal of the petitioner from service and direct his re-instatement within two months from the date of receipt of the copy of this judgment. The petitioner shall not be entitled to any back wages. His conduct should be under watch.

Thus the application is accordingly disposed of leaving the parties to bear their own costs.

K. S. S. A. S. B.
4.5.89.

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MEMBER (JUDICIAL)

B.R.PATEL, VICE-CHAIRMAN

I agree.



Ramchandra
4.5.89.

.....
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
4th May, 1989/Mohapatra