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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application No. 204 of 1987.

Date of decision : August 31, 1988.

Brajakishore Mohanty, son of late Krushna Charan Mohanty,
at present working as Assistant Superintendent of Post
Offices, Incharge Dhenkanal Sub-Division, At, P.O. &
Dist- Dhenkanal.

... Applicant

Versus

1. Union of India, represented by its Secretary,
Indian Posts, Dak Bhavan, New Delhi.
2. Postmaster General, Orissa Circle, Bhubaneswar-750 001,
Dist- Puri.
3. Superintendent of Post Offices, Dhenkanal Division,
At, P.O. & Dist- Dhenkanal.
4. Shri Sarbeswar Misra, Enquiry Officer cum- Asst. Manager,
(Admn.), Postal Printing Press, Mancheswar,
Bhubaneswar, Dist- Puri.

.... Respondents.

M/s Deepak Misra &
R.N. Nayak, Advocates

... For Applicant.

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

.... For Respondents.

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 petitioner prays to quash the charge framed against the petitioner contained in Annexure-2.

2. Shortly stated, the case of the petitioner that while he was working as Assistant Superintendent of Post Offices in Cuttack North Division during the period beginning from 1.6.1985 to 30.6.1985, he had been asked to conduct an investigation in connection with the suspected fraud committed by one Shri Bhagaban Swain, Extra Departmental Branch Postmaster, Kalapada Branch Office in respect of an account with Sri Baladev Jee . The allegation against Sri Swain was that he committed fraud amounting to Rs.613.60 and Rs.800/- in S.B. Deposits on two occasions in Account No.85815. The said amount of Rs.613.60 and a sum of Rs.800// was delivered to the Postmaster on 3.8.1983 and though necessary entries were made in the pass book, the amount was not credited to the Post Office account on the dates of deposit. Accordingly Sri Bhagaban Swain was put off from duty with effect from 1.10.1984. After completion of the investigation entrusted to the present petitioner, he submitted a report to the Superintendent of Post Offices, vide Annexure-1. On the basis of such a report, the order putting off Bhagaban Swain from duty was recalled and he was reinstated and two years

thereafter the petitioner is being sought to be proceeded against on the allegation that he has given a mis-leading note for which the Superintendent of Post Offices illegally recalled the order putting off Bhagaban Swain from duty and therefore the petitioner is said to have acted in a manner unbecoming of a Government servant and therefore violated Rule 3 (1) (ii) & (iii) of C.C.S. (Conduct) Rules, 1964.

3. In their counter, the respondents maintained that at this stage it would be too premature to come to a conclusion that the charges framed against the petitioner are baseless and not sustainable. It is further maintained on behalf of the respondents that just because of the mis-leading note the concerned Superintendent of Post Offices passed an order recalling the order putting off Bhagaban Swain from duty and such an order would not have been passed in the absence of a mis-leading note. Hence it is maintained by the respondents that the charges should not be quashed.

4. We have heard Mr. Deepak Misra, learned counsel for the petitioner and Mr. A.B. Misra, learned Sr. Standing Counsel for the Central Government at some length. We are always slow to interfere in matters of this nature especially when ~~the~~ culpability or otherwise of a particular delinquent officer could be adequately decided after the entire evidence comes on record. But in certain cases involving peculiar facts and circumstances like that of the present case, Bench can interfere if it is found that even if the

entire prosecution case is accepted to be true, yet the charge cannot be brought home against the delinquent officer under any circumstance. In the present case, we find that a note was given by the petitioner to the appropriate authority stating the fact that he had examined Bhagaban Swain, Jotish Chandra Swain, Bidyadhar Nayak and their statements have been endorsed in the said note. Nothing could be pointed out to us by the learned Sr. Standing Counsel that the petitioner had distorted the facts in his note. If there would have been any distortion then there was a chance of holding that the petitioner had mis-^{guided}~~communicated~~ the concerned authority. Jotish Chandra Swain himself admits that he had worked in place of Bhagaban on the disputed dates. The petitioner did not specifically state and/or come to a definite conclusion that Bhagaban Swain was on ^{duty on} 17.6.1983, 3.8.1983 and 31.12.1983. In his note the petitioner suggested that the S.D.P.I. Kendrapara should be asked to intimate the truth or otherwise of the above fact. Perusing the note submitted by the petitioner, the appropriate authority passed certain orders for which the petitioner cannot be held responsible especially when there is no indication either in the counter or during the course of argument ^{regarding} any distortion of facts made by the petitioner. Finally ^{the} orders are to be passed by the Superintendent of Post Offices who had passed the final order for which the petitioner cannot be held responsible. In such circumstances, we do hereby quash the proceeding initiated against the petitioner and we do hereby exonerate the petitioner from the charges levelled against him.

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

[Signature]
31.8.88
.....
Member (Judicial)

B.R. PATEL, VICE CHAIRMAN,



[Signature]
31.8.88
.....
Vice Chairman.

Central Administrative Tribunal,
Cuttack Bench.
August 31, 1988/Roy, Sr.P.A.