

II 2

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH

ORIGINAL APPLICATION NO. 258 OF 1987

Date of decision

..: October 5, 1988

Sri Banamali Satapathy,  
aged about 52 years  
son of S.N Satapathy,  
Ex-E.D.B.P.M., Tikarpada E.D.B.O.,  
District -Dhenkanal.

... Applicant

Versus

1. Union of India,  
represented by the Secretary Posts,  
Dak Bhawan, New Delhi-110 001.
2. The Postmaster General, Orissa Circle,  
At ,P.O. Bhubaneswar, District-Puri.
3. The Director, Postal Services,  
Sambalpur Region, P.O/ Dist- Sambalpur.
4. Superintendent of Post Offices,  
Dhenkanal Division, At,P.O & District-Dhenkanal.
5. Union of India,  
represented by the Secretary,  
Department of Law, New Delhi.

... Respondents

M/s. Deepak Misra, R.N Naik,  
S.S.Hota, Advocates

... For Applicant

Mr Ashok Misra,  
Additional Standing Counsel (Central Govt)

For Respondents

...

C O R A M

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

AND

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

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1. Whether reporters of local papers have been permitted 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.

J U D G M E N T

K.P ACHARYA, MEMBER (JUDICIAL), In this application under Section 19 of the Administrative Tribunals Act 1985, the order passed by the competent authority removing the petitioner from service vide Annexure 4 dated 31.12.1986 is under challenge.

2. Shortly stated, the case of the petitioner is that the petitioner while working as Extra Departmental Branch Post Master of Tikarpada Branch Post Office within the District of Dhenkanal a disciplinary proceeding was initiated against the petitioner on three allegations, namely ;

- i) The petitioner wilfully remained absent from duty from 3rd June 1986 to 6th June 1986 without permission and without giving a proper substitute;
- ii) The petitioner received a postal bag on 20 May 1986 and did not open the same till 21st May 1986;
- iii) The petitioner signed blank papers namely B.O daily accounts in favour of his substitute.

All these allegations were enquired into and the Enquiring Officer found the petitioner guilty of the charges and accordingly submitted his findings to the disciplinary authority who in his turn concurred with the said findings and ordered removal of the petitioner from the service. The matter was carried in appeal and it did not yield any fruitful result and hence this application with the aforesaid prayer.

3. In their counter the Opposite Parties maintained that punishment having been imposed on the basis of admission

of guilt pleaded by the petitioner and there being no violation of principles of natural justice, this Bench should not unsettle the order of punishment passed by the disciplinary authority.

4. We have heard Mr Deepak Misra, learned Counsel for the petitioner and Mr Ashok Misra, learned Additional Standing Counsel for the Central Government at some length. It was vehemently urged before us by the learned Additional Standing Counsel Mr Misra that the punishment having been imposed on the basis of admission of guilt by the petitioner and the departmental authorities having imposed a lenient sentence, namely, removal from service and that being the minimum penalty contemplated under the rules, this Bench should not unsettle the order of punishment and the penalty imposed over the petitioner. On the other hand it was contended by Mr Deepak Misra that if this case would have related to any regular Government servant of any other Department including that of the Postal Department, a proceeding under Rule 14<sup>a</sup> of the Central Civil Services (Classification, Control & Appeal) Rules would have been initiated against a particular employee and a minor penalty would have been imposed by the disciplinary authority. Unfortunately the petitioner being governed under the Extra-Departmental Agents (Conduct and Service) Rules, the petitioner had to face such a harsh punishment for certain minor offence having been committed by him. After having heard learned Counsel for both sides, we are of opinion that the offences alleged against the petitioner are undoubtedly very minor

in nature. The petitioner has pleaded guilty to the allegations and therefore there is no escape from the conclusion that rightly the Enquiring Officer found the petitioner guilty of the charges and it was rightly concurred by the disciplinary authority and the appellate authority rightly dismissed the appeal so far as the merits of the case is concerned. We do appreciate the arguments advanced by Mr. Ashok Misra, learned Additional Standing Counsel for the Central Government that there was no other way open to the disciplinary authority to impose any other penalty except the penalty of removal because that is the minimum penalty contemplated under the rules. We say this to be minimum because in the present case there is no question of recovery of any money which was a loss caused to the Government. Despite the arguments advanced by Mr. Ashok Misra, learned Additional Standing Counsel, we are of the view that the penalty imposed on the petitioner is extremely harsh and disproportionate to the offence for which the petitioner has been found guilty. We also find that there is considerable force in the contention of Mr Deepak Misra that any offence of this nature if committed by a regular Government servant of the Postal Department, the disciplinary authority would have imposed a minor penalty. Therefore, in several cases in the past we have stated in our judgments that the Ministry should seriously think of amending rule 7 of the Extra Departmental Agents (Service and Conduct) Rules so far as quantum of penalty is concerned especially in regard to the offences of minor nature. Some amount of discretion

VI 6

should be vested with the disciplinary authority to impose penalty which should not be disproportionate to the offence alleged against a particular employee and should be in accordance with the gravity of the offence. Otherwise it would be a great hardship on the Extra-Departmental Agent and it would clearly demoralise the employees and would deprive them of the incentive to put in sincere and hard labour for the Government work entrusted to them. We hope the Ministry would devote its serious attention over this matter soon after receipt of a copy of the judgment.

5. Having held that the punishment imposed by the competent authority is clearly disproportionate to the offence committed by the petitioner, we would direct that it would meet the ends of justice, if the conduct of the petitioner is censured and he is severely warned for his laches. Since the petitioner has worked in the Postal Department for the last 24 years without any bad record and the offences having been committed by him for the first time, we therefore feel inclined to take a lenient view on the question of penalty and therefore we do hereby set aside the order of removal passed by the competent authority vide Annexure-4 and direct his reinstatement. However the petitioner should be warned that he should be careful in future. The petitioner shall not be entitled to any back wages for the period of his

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absence from duty due to removal from service. The period from 3.6.86 to 6.6.86 shall be treated as 'dies-non'. We hope that the petitioner would be reinstated into service within 2 months from the date of receipt of a copy of this judgment. Thus the application stands allowed, leaving the parties to bear their own costs.

*[Signature]*  
.....5/10/88.....  
Member(Judicial)

B. R PATEL, VICE-CHAIRMAN

9 agree.

*[Signature]*  
.....  
Vice-Chairman *[5.10.88]*



Central Administrative Tribunal  
Cuttack Bench, Cuttack  
October 5, 1988/N.J. Joseph, Sr P.A.