

12 ✓
VII

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.308 of 1987. 20

Date of decision: June 19 ,1989.

Khagendra Nath Mandal, son of late
Ramachandra Mandal, at present working as
Senior Postmaster, Cuttack G.P.O.,
Town, Munsifi and District-Cuttack.

... Applicant.

Versus

1. Union of India
represented by the Secretary Posts,
Dak Bhavan, New Delhi 110 001.
2. Postmaster General, Orissa Circle,
At, P.O. Bhubaneswar, Dist-Puri.
3. Shri Brajaraj Misra,
Deputy Postmaster (HSG-I),
Bhubaneswar G.P.O., At, P.O.-
Bhubaneswar, Dist.Puri.

... Respondents.

For the applicant ... M/s. Devanand Misra,
Deepak Misra,
S.S. Hota, A. Deo, Advocates.

For the respondents ... Mr. A. B. Mishra,
Senior Standing Counsel (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)

1. Whether reporters of local papers may be allowed
to see the judgment ? Yes.
 2. To be referred to the Reporters or not ? ^{K2}
 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 prays to quash the orders contained in Annexures- 4 & 5 and to direct the respondents to allow the applicant to continue to officiate in the post of Senior Postmaster, Cuttack General Post Office on ad hoc basis vide Annexure-3 dated 10.9.1987.

2. Shortly stated, the case of the applicant is that while he was functioning as Superintendent of Post Offices, Balasore in January, 1986 he was appointed as an Enquiring Officer to enquire into the charges levelled against Shri K.C.Mohanty who had been called upon to show cause as to why a major penalty would not be imposed on him. The present applicant completed the enquiry and submitted his enquiry report and therein he had recommended for awarding minor penalty to the said Shri K.C.Mohanty. The Postmaster General took exception to this recommendation and ordered initiation of a proceeding against the applicant for having made illegal recommendation for imposing minor punishment on Shri K.C.Mohanty. As soon as the punishment was awarded in said proceeding, the applicant filed an application under section 19 of the Administrative Tribunals Act, 1985 which formed subject matter of O.A.123 of 1987 praying therein to quash the order of punishment. The judgment in O.A.123 of 1987 was delivered on 7.8.1987 quashing the punishment awarded to the present applicant. Thereafter, on 10.9.1987 vide Annexure-3 the Postmaster General appointed the applicant, Postmaster (HSG-I), Puri Head Office to officiate as

22-11 IX

Senior Postmaster, Cuttack General Post Office on ad hoc basis. Soon after this order was passed another proceeding was initiated against the applicant under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ~~against the present applicant~~ on an allegation that the applicant had committed certain financial irregularities in the matter of purchases of certain articles for the Department. Soon after initiation of the said proceeding, vide Annexure-4 dated 3.11.1987 the Postmaster General transferred the applicant from the post of officiating Senior Postmaster, Cuttack G.P.O. to the post of Postmaster (HSG-I), Puri H.O. and vide Annexure-5 the Postmaster General appointed Shri Brajaraj Misra, Deputy Postmaster (HSG-I), Bhubaneswar G.P.O. to officiate as Senior Postmaster, Cuttack G.P.O. on ad hoc basis which is under challenge.

3. In their counter, the respondents maintained that soon after disposal of Original Application No.123 of 1987 the applicant was given promotion to the cadre of Senior Postmaster and was posted as Senior Postmaster, Cuttack G.P.O. purely on ad hoc basis. The applicant has no right to the post. After initiation of a proceeding for committing irregularities in the matter of purchases and for contravening financial Rules, the Postmaster General following the directions of the higher authorities in cases of this nature, rightly ordered reversion of the applicant to the post of Postmaster (HSG-I) Puri Head Post Office and no illegality having been committed by the Postmaster General, the case is devoid of merit and is

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liable to be dismissed.

4. We have heard Mr. Deepak Misra, learned counsel appearing for the applicant and Mr. A. B. Mishra, learned Senior Standing Counsel (Central) at some length. We are in complete agreement with the submission of learned Senior Standing Counsel (Central) that after initiation of a proceeding under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, it was well within the rights of the Postmaster General to order reversion of the applicant. But in view of the changed circumstances, which has occurred in the meanwhile the orders passed by the Postmaster General contained in Annexures-4 & 5 cannot be sustained. The proceeding under Rule 16 of the C.C.S. (C.C.A) Rules, 1965 was initiated against the applicant for committing financial irregularities ended against the applicant and penalty was imposed on the applicant by the competent authority withholding one increment of the applicant for 9 months and against the said order the applicant had come up before this Bench by filing an application under section 19 of the Administrative Tribunals Act, 1985 which formed subject matter of Original Application No. 51 of 1988 - judgment of which was delivered on 17.5.1988. In the said judgment, we observed as follows :

" We have no doubt in our mind that certain ^{minor} financial irregularities have been committed by the petitioner. The irregularities being very minor in nature, we feel that for the ends of justice a censure would be sufficient. Therefore, while setting aside the penalty imposed by the competent authority in withholding the increment of the petitioner for nine months, we would direct that the conduct of the petitioner be censured and

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24

this would not stand as a bar for his future promotion. "

In such a situation, and having once observed that this punishment of censure would not stand as a bar for future promotion of the applicant, we cannot but stand by our observations made in the judgment namely censure would not stand as a bar for the future promotion of the applicant. Such being the situation, we have no other option but to quash Annexures 4 & 5 and direct that the applicant may continue in the promotional ^{post} purely as an adhoc arrangement and on officiating basis as observed by the Postmaster General in his order dated 10.9.1987 and contained in Annexure-3, until further orders of the Postmaster General.

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

[Signature]
..... 19.6.89
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.



[Signature]
..... 19.6.89
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
June , 1989/Sarangli.