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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH  
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ORIGINAL APPLICATION No. 379 OF 1987

Date of decision ... April 29, 1988.

Bishnu Chandra Sahoo, son of late Parakhit Sahoo,  
Ex- Extra Departmental Branch Postmaster, Papasara Branch Office  
At/P.O- Papasara, Via- Kishoreganj, Dist- Dhenkanal.

... Applicant.

Versus

1. Union of India, Department of Posts, Ministry of Communications, New Delhi, represented by its Secretary.
2. Director General of Posts, New Delhi.
3. Director of Postal Services, Sambalpur Region, Sambalpur.
4. Superintendent of Post Offices, Dhenkanal Division, Dhenkanal.

... Respondents.

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M/s D.P. Dhalsamant, S.K. Mohanty,  
B. Mohanty, S.P. Singhsamant,  
A.K. Kanungo & G.S. Namtoar,  
Advocates ...

For Applicant.

Mr. Tahali Dalai, Addl.  
Standing Counsel (Central) ...

For Respondents.

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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 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 .
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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 challenges the order of punishment passed against him removing him from service.

2. Shortly stated, the case of the petitioner is that while he was working as Extra-Departmental Branch Postmaster, Papasara Branch Post Office within the district of Dhenkanal, a disciplinary proceeding was initiated against him and the allegation was that one Sri Samant Chandra Pradhan depositor of 5 year RD A/c No. 42138 of Denomination of Rs.20/- delivered a sum of Rs.40.20 paise for being deposited in the said account towards the monthly instalments for the months of December, 1985 and January 1986 and the petitioner is said to have mis-appropriated the said amount. An inquiry was conducted against the petitioner and the Inquiring Officer found that the charge had<sup>not</sup> been established and accordingly submitted his findings to the disciplinary authority who in his turn dis-agreed with the Inquiring Officer and found the petitioner guilty of the charge and ordered removal of the petitioner from service with immediate effect. Being aggrieved by this order of punishment, the petitioner has invoked the jurisdiction of this Bench for interference.

3. In their counter, the respondents maintained that no illegality having been committed during the course of inquiry and the principles of natural justice having been followed in its strictest terms, the case is devoid of merit and is liable to be dismissed.

4. We have heard Mr. D.P.Dhalsamant, learned

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counsel for the petitioner and Mr. Tahali Dalai, learned Additional Standing Counsel for the Central Government at some length. It was submitted by Mr. Dhalsamant that there was no guilty intention on the part of the petitioner because admittedly the petitioner has mentioned the fact of deposit of the sum of Rs.40.20 paise in the pass book, in the R.D. journal and B.O. journal. The only mistake committed by the petitioner which is due to ~~purely~~ carelessness is that he didnot take into account till 4.3.1986 which would amount to a bonafide mistake as it has been clearly escaped from his notice. Further submission of Mr. Dhalsamant is that if there would have been any guilty intention on the part of the petitioner, then he would not have made ent-ries in the R.D. journal and B.O. journal. The fact that the petitioner had made entries in the aforesaid documents is true and correct. But we are required to findout whether the prosecution has been successful in bringing home the charge against the petitioner. On a perusal of the inquiry report, the Inquiring Officer comes to the following conclusion :

" But it is not proved through evidence that Sri Bishnu Chandra Sahoo had either misappropriated this amount or he had any malafide intention in not crediting the amount on the date of acceptance ".

No doubt, this finding goes completely in favour of the petitioner but the disciplinary authority i.e, the Superintendent of Post Offices, Dhenkanal Division dis-agreed with the findings of the Inquiring Officer but didnot come to a positive conclusion that the charge was brought home against the petitioner. In his findings, the Superintendent of

Post Offices, Dhenkanal Division observed as follows :-

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Sri Sahoo further admitted that counting of cash was not essential according to his opinion, which cannot at all be accepted and this tendency of Sri Sahoo leads to belief that his conduct cannot be free from suspicion. Hence it is a clear cut misappropriation of Government money of Rs.40.20 by Sri B.C.Sahoo for the period from 9.1.1986 to 4.3.1986 ".

From the above findings of the disciplinary authority, it is clear that he has entertained a mere suspicion about the liability of the petitioner. The Hon'ble Supreme Court in the case of Union of India vrs. H.C.Goel, reported in A.I.R. 1964 S.C. 367 had been pleased to observe that however much the suspicion may be grave it cannot take the place of proof even indomestic inquiry. Therefore, we donot feel persuaded to up-hold the order of punishment on mere suspicion, however grave it may be, entertained by the disciplinary authority. Hence the order of punishment is hereby set aside and the petitioner is exonerated from the charge levelled against him and it is further directed that the petitioner be reinstated into service within one month from the date of receipt of a copy of this judgment. The petitioner shall not be entitled to any back wages. Rs.40.20 paise be recovered from the pay of the petitioner if not already done.

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

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 .....  
 Member ( Judicial)

B.R. PATEL, VICE CHAIRMAN,

9 agree.

*29.4.88*  
 .....  
 Vice Chairman.

Central Administrative Tribunal,  
 Cuttack Bench.  
 April 29, 1988/Roy, SPA.