

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

7

ORIGINAL APPLICATION NO. 386 OF 1987.

Date of decision ... March 30, 1988.

Rajaya Bosi, aged about 57 years,
s/o- P.Bosi, SDO (Postal), Jeypore (K),
At present in Gunupur, Dist- Koraput.

... Applicant.

Versus

1. Union of India,
 represented by Postmaster General, Orissa Circle,
 Bhubaneswar- 751 001.
2. Senior Superintendent of Post Offices,
 Koraput Division, Jeypore (K), 764 001.
3. Sri B.Jena, Inquiry Officer-cum-Senior Superintendent
 of Post Offices, Puri Division, Puri- 752 001.

... Respondents.

—
M/s P.V.Ramdas &
B.K.Panda, Advocates

.. For Applicant.

Mr. A.B.Misra, Sr. 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 have been
 permitted to see the judgment ? Yes .
 2. To be referred to the Reporters or not ? *Yes*
 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 challenges the initiation of a proceeding under Rule 14 of the C.C.S. (CCA) Rules, 1985.

2. Shortly stated, the case of the applicant is that he is a member of the scheduled caste and was serving as Savings Bank Development Officer at Jeypore. A proceeding has been drawn up against the applicant on 22.4.1987 on four items of charge which are as follows :-

- (i) The petitioner had taken a total amount of Rs.600/- in three instalments-Rs.200/- in each instalment, i.e, on 1.10.1985, 8.10.85 and 24.10.85, but in his T.A.bill he had mentioned about two instalments only i.e, Rs.400/-.
- (ii) The petitioner while functioning as Savings Bank Development Officer of Koraput Division visited Jeypore and Bhawanipatna Head Office in December, 1985, August, 1986, October, 86, November, 1986 and December, 1986 and took no action to bring down the pendency of Saving Bank objections substantially and thus he failed to maintain devotion of duty as enjoined in Rule 3 (i) (ii) of C.C.S. (Conduct) Rules, 1964.
- (iii) The petitioner did not submit copies of fortnightly tour diaries showing the number of works performed by him during his visit to Bhawanipatna Head Office.

IV
9

(iv) The petitioner unnecessarily used service postage stamps in sending telegrams to his higher authorities alleging unauthorised withdrawal of certain money from the S.B. Account of a deceased person.

Prayer of the petitioner is that the proceeding should be quashed.

3. In their counter, the Opposite Parties maintained that there being a prima facie case against the petitioner, he is being proceeded against and the Bench should not interfere at this stage till the finality is reached and the guilt or otherwise of the petitioner is adjudicated by the competent authority.

4. We have heard Mr. P.V.Ramdas, learned counsel for the petitioner and Mr. A.B.Misra, learned Sr. Standing Counsel for the Central Government at some length on the merits of the case. At the out set we must say that it was vehemently opposed by the learned Sr. Standing Counsel that matters of this nature should be left to the discretion of the disciplinary authority and his discretion should not be interfered unless and until the proceeding is concluded. We have given our anxious consideration to the arguments advanced at the Bar on this question but we feel inclined to say that if the charges appear to us to be triffling in nature, we donot think it just and expedient and so also equitable to make the petitioner to face the hazards of an inquiry. From the records, we find that though the petitioner had taken an advance of Rs.600/- on three different instalments as mentioned above and had submitted his T.A.bill on 4.11.1985 showing that he had taken an advance of Rs.400/- only, yet it would be found from record that in October, 1986 the

10/11/86

petitioner voluntarily submitted to his higher authorities that a sum of Rs.200/- more should be deducted and recovered from him as he had taken an advance of Rs.600/-. This action on the part of the petitioner proves his bonafide and therefore, we find no adequate reason to proceed against the petitioner in a departmental inquiry especially in a proceeding under Rule 14.

As regards the charge as per item No.2 is concerned, it appears to be vague. By charging a particular person that he had not substantially reduced the pendency of the S.B. objections carries no meaning at all. It would be absolutely difficult on the part of the delinquent to meet the charge because we cannot understand what does the department mean by saying 'substantially'. The charge should always be specific and not vague .

As regards charge no.3 it is not also specifically stated the period for which the petitioner did not submit copies of his fortnightly diaries. From the language couched in the charge we are of opinion that probably the department wants to charge the petitioner for not having given his fortnightly tour diary for the entire period he has served. It can also be interpreted in another way that the department has charged the petitioner for not giving the fortnightly report for a particular period . Therefore, the period not having been specified, this charge is equally vague.

As regards item No.4 of the charge we are of opinion that the petitioner had admittedly sent two telegrams to his higher authorities in regard to the unauthorised withdrawal of money from a particular S.B.Account. This was an official report. The petitioner did not make this report in his private capacity to his higher authorities. Therefore,

we donot find any illegality committed by the petitioner to have used the service postage stamps.

5. From the aforesaid discussions, it is apparently clear that not only there is some bonafide on the part of the petitioner in regard to item no.1 of the charge but the charges are ~~of~~ very triffling in nature and does not warrant a proceeding under Rule 14 of the C.C.S.(CCA)Rules, 1964. The more extenuating circumstance which weighed with us is that the proceeding was initiated since 22.4.1987 and even though one year has elapsed as yet the proceeding has not made any head way and there has been clear deviation of the guide-lines given by the Director General of Posts that every proceeding should be disposed of within 120 days from the date of its initiation. To add to this, we are informed that the petitioner would retire in May, 1988 and therefore we donot like that he should again face the hazards of an inquiry which should have been long completed. Before we part with this aspect we would also like to add that the Director General of Posts & Telegraphs in his letter No. ST/13-1-65 IV dated 18.1.86 has observed that in cases of trivial nature disciplinary proceeding is not the proper method but on the contrary steps should be taken to reform the employees so much so the Director General goes to the extent of saying :

" Fastidiousness and zeal to clean administration by punitive action alone can no longer be effective in present day context when number and complexity of cases have increased manifold ".

We feel that this case comes squarely within the guidelines laid by the Director General of Posts in the above mentioned letter. Taking into consideration the facts and circumstances

12 ✓

of the case , we feel inclined to say that the proceeding should not continue against the petitioner and the proceeding is hereby quashed exonerating the petitioner from the charges .

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

[Signature]
 30.3.88
 Member (Judicial).

B.R. PATEL , VICE CHAIRMAN , 9 agree .

[Signature]
 30.3.88
 Vice Chairman.



Central Administrative Tribunal,
 Cuttack Bench.
 March 30, 1988/Roy, SPA.