

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH

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ORIGINAL APPLICATION No. 392 OF 1987.

Date of decision .. March 30, 1988.

Sri Alekha Chandra Pramanik, aged about 44 years,  
son of late Ghano Paramanik, Village- Baliaapada,  
P.O. Khondo sahi,, Via- Nisdhintakoili, Dist-Cuttack.

... Applicant.

Versus

1. Union of India, represented by the  
Addl. Post Master General, Orissa Circle,  
Bhubaneswar- 751 001.
2. Superintendent of Post Offices,  
Cuttack City Division, Cuttack- 753 001.
3. Senior Post Master, Cuttack G.P.O.,  
Cuttack- 753 001.

... Respondents.

Mr. P.V.Ramdas, Advocate .. For Applicant.

Mr. Tahali Dalai, Addl. 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)

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 .

## JUDGMENT

K.P.ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner challenges the order passed by the disciplinary authority removing the petitioner from service contained in Annexure-8.

2. Shortly stated, the case of the petitioner is that he was a Postman in the Cuttack G.P.O. and was appointed as such on 24.5.1965 and ultimately confirmed on 1.3.1968. On 14.12.1978 the petitioner is said to have availed leave for two days remaining absent and thereafter he remained absent till 31.5.1984 on account of insanity. The petitioner was proceeded against in the departmental inquiry for unauthorised absence and ultimately removed from service. Hence, the petitioner in this application prays to quash the order of removal and to reinstate the petitioner into service as Postman, Cuttack G.P.O. with all consequential benefits or in the alternative, the petitioner may be allowed to retire from service.

3. In their counter, the respondents maintained that the petitioner having remained unauthorisedly absent from duty the competent authority had no other alternative but to initiate a departmental proceeding and the petitioner having been found guilty was rightly punished and principles of natural justice having been strictly complied with in course of inquiry, the petitioner has not been prejudiced at all and therefore this Bench should not interfere/regard to the imposition of punishment on the petitioner.

4. We have heard Mr. P.V.Ramdas, learned counsel for the petitioner and Mr. Tahali Dalai, learned Addl. Standing Counsel for the Central Government at some length. From different documents and considering the averments in the petition and in the counter, we find that the petitioner had submitted a leave application on 22.12.1978 and on 14.5.1979 the petitioner had applied for invalid pension as he was suffering from periodical insanity. We need not discuss this aspect of the case of the petitioner or the respondents in detail. It would suffice to say that the petitioner feels strongly aggrieved by not holding a regular inquiry and punishing him resulting from the said inquiry and therefore due opportunity was not availed by the petitioner to defend himself and to disprove the allegations. Rightly and fairly there was no dispute at the Bar that in a disciplinary proceeding under Rule 14 of the C.C.S. (CCA) Rules envisaging imposition of major penalty, a full fledged inquiry is bound to be conducted and the rule on this point is mandatory. Even though this settled position of law was not disputed by the learned Additional Standing Counsel yet he contended that an inquiry has been conducted and the finding of guilty has been arrived at by the Inquiring Officer purely on the admission of the delinquent which is sanctioned under the law and therefore, in such circumstances, no illegality has been committed either by the Inquiring Officer or by the disciplinary authority. We have given our anxious consideration to this fold of argument advanced by the learned Addl. Standing Counsel but we are unable to agree with him. The so-called

admission sought to be relied upon by the learned Addl. Standing Counsel is not an admission at all and just ~~at~~ this stage the learned Inquiring Officer and the learned disciplinary authority had completely gone wrong. In his defence the petitioner pleaded that though he remained absent from duty yet it was on account of temporary insanity from which the petitioner was suffering. By no stretch of imagination, one can conceive that this statement amounted to an admission of guilt and therefore we are of opinion that the Inquiring Officer should have conducted a full fledged inquiry and should have particularly enquired into the fact as to whether the petitioner was suffering from ~~mental~~ insanity during the period especially in view of the fact that the petitioner had been asked on 13.9.1979 by the competent authority to submit a medical certificate justifying the mental insanity. We are of further opinion that the learned Inquiring Officer ~~have~~ abruptly concluded the guilt of the petitioner without making a full fledged inquiry <sup>and</sup> ~~has~~ committed a gross illegality and thereby violated the principles of natural justice. In other words, the petitioner has been deprived of a reasonable opportunity to effectively and adequately defend himself. Therefore, we find that the proceeding is vitiated under the law and in such circumstances we do hereby quash the proceeding and the petitioner is exonerated from the charges levelled against him.

5. Since the petitioner had requested for permitting him to retire prematurely and should be granted invalid pension, we would direct that believing his story of insanity he should be allowed ~~the~~ invalid pension <sup>Yours</sup>

and pension according to rules should be paid to him. The petitioner should be given invalid pension with effect from the date on which he had made an application i.e., 14.5.1979 as appears from Annexure-1. we hope the pension ~~should~~ be calculated and paid to the petitioner at least within four months from the date of receipt of a copy of this judgment.

6. Thus, the application is disposed of accordingly leaving the parties to bear their own costs .

*K. A. S. S.*  
.....  
30.3.88.  
Member ( Judicial)

B.R. PATEL, VICE CHAIRMAN, *I agree.*

*R. Roy*  
.....  
30.3.88.  
Vice Chairman.



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