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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

ORIGINAL APPLICATION No.45 of 1987.

Date of decision : December 3, 1987.

Kishore Chandra Choudhury,
S/o Arjun Choudhury, Telephone
Operator, Phulbani Exchange, At/
P.C./Dist. Phulbani ...

Applicant.

Versus

1. Union of India,
represented by the General Manager,
Telecommunication, Orissa Circle,
Bhubaneswar.
2. Director of Telegraphs,
Office of the General Manager,
Telecommunications, Orissa,
Bhubaneswar.
3. Divisional Manager,
Telegraphs, Berhampur,
District-Ganjam. ...

Respondents.

For the applicant ... M/s. P.V. Ramdas, &
B.K. Panda, 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 ? *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 order passed by the competent authority imposing penalty on the applicant vide Annexure-2 is under challenge.

2. Shortly stated, the case of the applicant is that in the year 1983 he was functioning as a Telephone Operator in Phulbani Exchange and on 13th November 1981 when he was functioning between 3.20 p.m. and 10.40 p.m., a trunk call was booked from Phulbani Trunk Board to Bhubaneswar -52149. The allegation levelled against the applicant is though the call was effective yet, the applicant treated the call as ineffective and cancelled the ticket with a guilty intention thereby misconducting himself. Hence, proceeding under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 was initiated against the applicant and an enquiry was conducted. The enquiring officer found the applicant guilty of the charge and accordingly submitted his findings to the Disciplinary authority who in his turn concurred with the findings of the Enquiring Officer and vide Annexure-2 ordered that the pay of the applicant be reduced by two stages from Rs.468/- to Rs.444/- for a period of two years with effect from 1.4.1986 and it was further ordered that the applicant will not earn increments of pay during the period of reduction and that on the expiry of this period, the reduction will have the effect of postponing of his future increments of pay. Being aggrieved by this penalty imposed on the applicant, a prayer has been made by him before this Bench for interference to the

extent of quashing the punishments.

3. In their counter, the respondents maintained that no illegality having been committed during the course of enquiry and fullest opportunity having been given to the applicant for effectively defending himself and principles of natural justice having been strictly complied, the order of punishment should not be unsettled and there being no merit in the case, is liable to be dismissed.

4. We have heard Mr.P.V.Ramdas, learned counsel for the applicant and learned Senior Standing Counsel (Central), Mr.A.B.Mishra at some length. We have also perused the enquiry report and the deposition of Mr.A.C.Rao who was functioning as one of the Operators in the Bhubaneswar Trunk Exchange Board. After perusal of the evidence on record and report of the Enquiring Officer we are perfectly convinced and satisfied that the charge has been brought home against the delinquent officer. In other words, we have no hesitation to say that this is a case of full proof evidence. In such circumstances, we would not like to interfere with the finding of guilt arrived at by the Enquiring Officer with which the Disciplinary authority has also concurred. Such finding is hereby confirmed. But, Mr.P.V. Ramdas, learned counsel for the applicant emphatically submitted before us to interfere on the quantum of punishment. We have also given our anxious consideration to the arguments advanced at the Bar on this important matter and we feel that interference is necessary for the ends of justice because this is a solitary instance of misconduct on the part of the applicant. We do not

find from the evidence that there is any past bad record against the applicant while discharging his official duties. Due to such extenuating circumstances, we feel inclined to take a lenient view on the question of penalty imposed on the applicant. We would confirm the order of the Disciplinary authority to the extent that the pay of the applicant be reduced by two stages from Rs.468/- to Rs.444/-. But so far as the order of the Disciplinary authority in directing that the reduction of pay will have the effect of postponing the future increments of pay of the applicant is hereby set aside and modified to the extent that the applicant would be entitled to his future increments. To further clarify, we would say that the pay of the applicant be reduced to two stages from Rs.468/- to Rs.444/- in the scale of pay of Rs.260-8-300-EB-8-340-10-360-12-420-EB-12-480/- for a period of two years with effect from 1.4.1986.

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

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Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

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Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
December 3, 1987/S.Sarangi.