

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO: 141 OF 1988

Date of decision : March, 7, 1991

Laxmidhar Pradhan : Applicant

Versus

Union of India and others ; Respondents

For the applicant : M/s. Deepak Misra, R.N. Naik,
A. Deo, Advocates.

For the Respondents. : Mr. A.K. Misra, Standing
Counsel (Central)

C O R A M:

THE HON'BLE MR. B.R. PATEL, VICE CHAIRMAN

AND

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

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1. Whether Reporters of local papers may be allowed to see the judgment ? Yes.
 2. To be referred to the repors or not? *NO*
 3. Whether Their Lordships wish to see the fair copy of the Judgment ? Yes.

J U D G M E N T

N.SENGUPTA, MEMBER (J), For the present purpose the facts may be

briefly stated. Admittedly the applicant was appointed as Extra Departmental Sub-Postmaster, Khuntuni in May, 1934 and he took over charge on 14.5.1934 of the said Sub-Post Office. The applicant has alleged that after having rendered about four years of continuous service, Respondent No.4 orally asked him to make over charge stating that Respondent No.3 i.e. the Superintendent of Post Offices, Cuttack South Division so desired. The applicant has further alleged that there was no justifiable reason for such an oral direction by Respondent No.4 nor ~~for~~ Respondent No.3 to direct Respondent No.4 to ask him (the applicant) to ~~make~~ over charge of the Sub-Post Office. The applicant has prayed for a direction to the Respondents not to relieve him from his duties as Extra Departmental Sub-Postmaster, Khuntini.

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2. Respondents in their counter affidavit have maintained that the applicant's father was

working as E.D.S.P.M. of the self same Sub Post Office in 1982. At that time the applicant unauthorisedly worked in the Post Office taking advantage of the fact of his father being the Sub Post Master and committed some irregularities and illegality. Subsequently, in 1986, the applicant got hold of some pass Book and fraudulently appropriated some amounts in deposit in those pass books. After these facts came to the notice of the Department, the applicant was put off duty by Respondent No.3 under order dated 2.5.1988 (Vide Annexure-R/14) but as the applicant did not make over charge and obtained an order of stay of his relief from this Tribunal after filing of this application on 4th May, 1988, and is still continuing to hold charge of the Sub-Post Office. After this counter affidavit the applicant has filed a supplementary affidavit by way of amendment of the averments in the application. In this supplementary affidavit it has been averred that the order vide Annexure-R/14 was without jurisdiction and the applicant could not be put off duty because the allegations on which the applicant is going to be proceeded, against relate to dates prior to his assuming charge of the

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office of the E.D.S.P.M., Khuntuni. An additional prayer for an order quashing any pending enquiry proceeding and quashing the order putting him (the applicant) off duty has been made .

3. We have heard Mr. Deepak Misra learned Counsel for the applicant and Mr. A.K. Misra learned Senior Standing Counsel (CAT) for the Respondents and persused the different Annexures to the application and the counter affidavit. There is no dispute about the date of assumption of charge by the applicant but what Mr. Deepak Misra has very strenuously contended is that a person can be proceeded against for acts or omission committed after holding the office and not for anything done prior to his joining the office. Mr. Deepak Misra has also cited a decision of this Tribunal in the case of P. Ramaswamy Vs. Superintendent of Post Offices reported in ATR 1988 (2) CAT 434 in support of this contention of his.

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Deepak Misra
7/12/91

This decision is really of no assistance to resolve the controversy raised in the case in hand. What had been decided in that case was whether a person would be put off duty for an action wholly unconnected with the performance of his duties as such officer, but in the instant case, though no ^{- of -} Memo charges, has been filed, from the counter affidavit filed by the Respondents, it appears that the allegations contained in the charge framed against the applicant relate to some acts or omission after he took over charge as EDSPM of Khuntuni though it also contains a reference to certain acts of the applicant during the time he is alleged to have been unauthorisedly acting as SPM . The applicant was ordered to be put off duty but he has not yet made over the charge of the office. In view of the interim orders passed by this Tribunal on 5.5.88 and 25.6.88. Mr. A.K.Misra the learned Counsel for the Respondents has referred to some of the Annexures such as Annexures-R/5 and R/6 to contend that the applicant is liable to be put off duty, we would express no opinion other than saying

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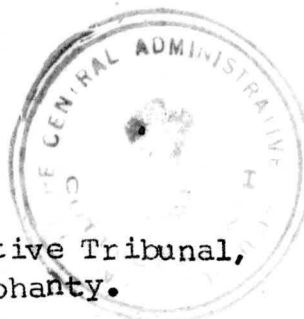
that if there are allegations of forgery or fraud ,
under the proviso to rule-9 of the E.D.Agents
conditions of Service rules even before initiation
of a disciplinary proceeding an ED Agent can be put
off duty.

4. In ~~this~~, circumstances, of the case we
would say that the Respondents i.e. Postal Authorities
are free to frame charges according to law and
the orders of this Tribunal dated 5.5.88 and 25.6.
88 should be understood as orders directing not to
terminate the services of the applicant without
concluding the Disciplinary enquiry under the rules
and further that it has ~~not~~ bearing on the question
of putting the applicant off duty. To put it ~~on~~
otherwards the order putting the applicant off duty
will continue with all its legal consequence.

5. The application is accordingly disposed of
leaving the parties to bear their own costs.


.....7.3.91
VICE CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench:K.Mohanty.




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MEMBER (JUDICIAL)