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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.
Original Application No. 237 of 1988.
Date of decision : May 18, 1989.

Sri Purna Chandra Swain,
E.D.Branch Postmaster, son of
Babana Swain, village/P.O.Nati,
Via-Jagatsinghpur, Dist.Cuttack. ... Applicant.

Versus

1. Union of India, represented by the
Postmaster General, Orissa, New Capital.
Bhubaneswar.

2. The Addl. Postmaster General, Orissa,
New Capital, Bhubaneswar.

3. The Superintendent of Post Offices,
Cuttack South Division, Cuttack.

4. Shri Gorachand Swain,
aged about 37 years, son of Lali
Narendra Swain, at present working as
E.D.B.P.M., At/P.O.Nati, Via-Jagatsinghpur,
District-Cuttack.

... Respondents.

For the applicant ... M/s.J.N.Jethi,
V.Prithvi Raj, Advocates.

For the Respondents 1 to 3 .. Mr.A.B.Mishra,
Senior Standing Counsel (Central)

For the Respondent No.4. ... M/s.Deepak Misra,
R.N.Naik,
Anil Deo, Advocates.

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 ? *N*

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 order of removal passed by the competent authority removing the applicant from service contained in Annexure-4 is under challenge.

2. Shortly stated, the case of the applicant is that he was Extra-Departmental Branch Postmaster, Nati Branch Post Office (Jagatsinghpur Sub-Division) within the district of Cuttack, and he was appointed as such in the year 1961. Allegations were levelled against the applicant that when the Assistant Superintendent of Post Offices, inspected the said Post Office on 1.12.1982 he found shortage of cash to the extent of Rs.509.98 paise and second charge against the applicant was that he had caused enormous delay in payment of Money orders to the payees ranging between 8.10.1982 to 2.12.1982 and the third charge was that the applicant retained heavy cash beyond prescribed limit from 2.11.1982 to 30.11.1982. A full-fledged enquiry was conducted and the Enquiring officer found that the charge Nos.1 and 3 had been established whereas charge No.2 was not proved. Accordingly, he submitted his findings to the disciplinary authority who in his turn concurred with the findings of the Enquiring officer and ordered removal of the applicant from service. Appeal preferred by the applicant proved fruitless. Hence this application with the aforesaid prayer.

3. In their counter, the respondents maintained that no illegality having been committed during the course of enquiry and principles of natural justice having been

strictly followed and the case being one of full-proof evidence, the order of punishment should not be unsettled - rather it should be sustained. In a crux it is maintained that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr.J.N.Jethi, learned counsel for the applicant and Mr.A.B.Mishra, learned Senior Standing Counsel (Central) at some length. We have perused the pleadings of the parties and we have carefully gone through the relevant records including the report of the Enquiring Officer and that of the reasonings assigned by the disciplinary authority. We cannot take a view other than what has been taken by the enquiring officer and the disciplinary authority, that charges 1 and 3 have been proved against the delinquent officer i.e. the applicant. Therefore, we find that the applicant is guilty of charges Nos.1 and 3.

5. Next question that needs consideration is as to the quantum of penalty that is to be imposed on the applicant. Temporary misappropriation of an amount of Rs.509.98 and retention of heavy cash beyond prescribed limit is for only 28 days. Ofcourse the applicant should not have retained such heavy cash and violated the Rules. But it cannot be lost sight of the fact that the applicant had served the department near about 26 years without any blemishes and the offence alleged against him being committed for the first time we feel inclined to take a lenient view on the question of penalty especially because one day after the detection the applicant had deposited the amount

i.e. Rs. 509.98. The applicant has also taken the plea of inadvertance mistake to have been committed by him. Taking into consideration all these facts and circumstances we feel that a lenient view ought to be taken on the question of penalty and therefore, we would say realisation of the money to the extent of Rs. 509.98 paise would be deemed to be sufficient punishment as per the prescribed Rules contained in the penal clauses. We therefore, set aside the order of removal of the applicant from service and we direct his reinstatement into service within two months from the date of receipt of a copy of this judgment and the applicant's conduct should be kept under watch. The applicant would not be entitled to any back wages.

6. Before we part with this case we would say that in the post of the applicant somebody else has been appointed i.e. Gorachand Swain has been appointed to act as Extra-Departmental Branch Postmaster, Nati Post Office and he has served near about 3 years. By virtue of our judgment the applicant is to be reinstated and in consequence thereof, the said Gorachand Swain, Respondent No. 4 is bound to vacate the said Post. Therefore, we would say that his name may be kept in the waiting list and appointment be given to him as and when vacancy occurs in any nearabout Post Office. We shall be happy if he is appointed as soon as possible.

7: Thus, this application is accordingly disposed of
for

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leaving the parties to bear their own costs.

Sarangi
18/5/89
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.

Burhan
18-5-89
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
May 18, 1989/Sarangi.

