

7-14

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 260 of 1988

Date of decision : February 3, 1989

Dr. Laxmi Narayan Das,  
aged about 44 years,  
son of Late Dinabandhu Das,  
at present working as Medical  
Officer Incharge of P.M.T. Hospital,  
At/P.O. & Dist. Cuttack. .... Applicant

-Versus-

1. Union of India represented by  
its Secretary, Department of Posts,  
Dak Bhavan, New Delhi.
2. Director (Vigilance), Govt. of India,  
Ministry of Communication  
Dak Bhawan, Sansad Marg, New Delhi-110001
3. Assistant Director-General  
(Vigilance), Dak Bhavan, New Delhi.
4. Postmaster General, Orissa Circle,  
At/P.O. Bhubaneswar, Dist. Puri.

..... Respondents

For the Applicant ..... M/s. Deepak Misra &  
A. Deo., Advocates

For the Respondents ... Mr. A. B. Misra  
Sr. 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 Judgement ? Yes
  2. To be referred to the Reporters or not ? ☒ No
  3. Whether Their Lordships wish to see the fair  
copy of the judgement ? Yes.
-

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 order of punishment imposed on him by the competent authority withholding one of his increment without cumulative effect for two years vide Annexure-3.

2. Shortly stated, the case of the applicant is that he is at present a Medical Officer attached to the P & T Dispensary, Cuttack. From 4.3.1977 to 28.6.1982 the applicant was working as Medical Officer in charge of P & T Dispensary, at Bhubaneswar. On 24.10.1986 a charge was delivered to the applicant under Rule 16 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 to show cause as to why minor penalty would not be imposed on him for having neglected his duty. According to the instructions issued by the Government the applicant was to inspect and make physical verification of the medicines in the stocks and stores of the said hospital which he did not do and therefore, an allegation was levelled against the applicant that he has neglected in due discharge of his duties. After the explanation was submitted by the applicant the competent authority ordered stoppage of one increment of the applicant without cumulative effect for a period of two years. This is contained in Annexure-3 which is under challenge and hence this application with the aforesaid prayer.

3. In their counter, the respondents maintained that  
no illegality having been committed by the competent

authority, the impugned order should not be unsettled -  
on the contrary, it should be sustained.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. A. B. Mishra, learned Senior Standing Counsel (Central) at some length. No doubt, Mr. Deepak Misra vehemently urged before us that the order of punishment is bad in fact and law because the applicant had performed his duties to the best of his ability and with utmost sincerity. It was Shri Jasobanta Nag who was the clerk in charge of the stock and stores and had neglected his duties for which there was shortage of medicines in the stock and stores and due to such negligence in his duties Shri Jasobanta Nag having been punished, the applicant should not have been proceeded against. While pointing out the bonafides of the applicant Mr. Deepak Misra submitted before us when the applicant had given due information to the Postmaster General regarding the negligence of duty on the part of Shri Jasobanta Nag and no action having been taken against the said Jasobanta Nag, the applicant could not have been punished. We have given our anxious consideration to <sup>the</sup> arguments advanced at the Bar on this question and we have perused the relevant papers and so also the averments of the applicant <sup>in the</sup> application under section 19 of the Act and the averments in the counter. The aforesaid submission of Mr. Deepak Misra was stiffly opposed by learned Senior Standing Counsel (Central), Mr. A. B. Mishra. After giving our careful consideration to the arguments advanced at the Bar and after giving careful attention to the above mentioned documents we are of

opinion that rightly the disciplinary authority held that the applicant had not performed his duties which was expected from him under the relevant Rules. Even though Shri Jasobanta Nag had neglected in performance of his duty, yet it was incumbent upon the applicant to verify the stocks and stores at his disposal. Such a step not having been taken by the applicant, we think there is considerable force in the contention of learned Senior Standing Counsel (Central) that the applicant had neglected to perform his duties and the disciplinary authority took the correct view. Such being the situation, we do hereby confirm the order of the disciplinary authority so far as the finding of guilt is concerned.

5. Lastly, Mr. Deepak Misra submitted that this Bench should seriously take into consideration the fact that the applicant was overbusy in attending<sup>to</sup> the duties in the Hospital and he had a lot of administrative work and to add to this the applicant having informed the Postmaster General, Orissa Circle regarding the negligence on the part of Shri Jasobanta Nag<sup>and therefore</sup> a more lenient view should be taken on the quantum of punishment. No doubt, it was stiffly opposed by learned Senior Standing Counsel (Central) but we feel that the above mentioned arguments of Mr. Deepak Misra has considerable force and therefore, while confirming the finding of the disciplinary authority regarding the guilt of the applicant we would modify the quantum of punishment imposed on him. Therefore, the

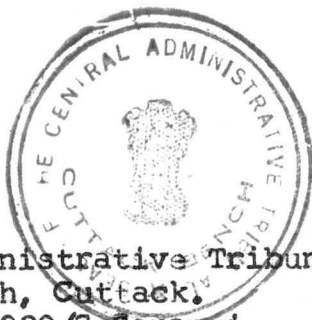
order passed by the disciplinary authority withholding one increment of the applicant for a period of two years without cumulative effect is hereby set aside and we direct that the conduct of the applicant be censured which would meet the ends of justice.

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

*[Signature]*  
3.2.89.  
.....  
Member (Judicial) .....

*g agree.*

B.R.PATEL, VICE-CHAIRMAN,



Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
February 3, 1989/S. Sarangi.

*[Signature]*  
3.2.89  
.....  
Vice-Chairman