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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

O.A. NO. 273 of 1988.

Date of decision - February 9, 1990.

Sri Prahallad Chandra Mallick .... Applicant

Versus.

Union of India and others .... Respondents

M/s. Deepak Misra,  
R.N.Naik and  
A. Deo ... Counsels for Applicant

Mr. Ganeswar Rath .. Sr. Standing Counsel for  
the respondents.

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C O R A M :

THE HONOURABLE MR. B.C.MATHUR, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. N. SENGUPTA, MEMBER (JUDL.)  
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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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JUDGMENT.

N. SENGUPTA, MEMBER (J).

For the present purpose, the facts

of the case may be stated thus. The applicant faced a  
departmental proceeding under two articles of charges;

one of which was that he detained an amount of Rs.60/-  
without making the deposit in time and after a long delay  
made the required deposit. On this charge alone, the

*He is Exempt*  
*9.2.90*

disciplinary authority found him guilty. So it is unnecessary to refer to the other charge. The applicant was working as E.D.S.P.M. of Angulai Sub-post office, and the disciplinary authority imposed a penalty of removal from service. Against this order of removal, the applicant preferred an appeal to the ~~Additional~~ <sup>eventually heard by ADP MG -</sup> Postmaster General, Orissa, who by his order dated 26.5.83 (Annexure-4) did not allow the appeal and confirmed the order of punishment passed by the disciplinary authority. The grievance of the applicant is that the appellate authority had rejected his appeal without affording him an opportunity to be heard. Therefore, he did not follow the principles of natural justice and as such the appellate order is vulnerable and liable to be quashed.

2. Mr. Ganeswar Rath appearing for the respondents has contended that no where in the E.D. Agents (Conduct & Service) Rules, 1964 is there a provision for giving a personal hearing to the applicant or the delinquent by the appellate authority. He has referred to Rules 12 to 15 of the Rules of 1964 and contended that since under rule 12 the appeal memorandum is to contain all material statements and the arguments on which the appellant relies, it would not be necessary to give him a personal hearing. On the other hand, Mr. Deepak Misra for the applicant has drawn our attention to a decision of the Chandigarh Bench of the Central Administrative Tribunal reported in II 1988 ATLT (CAT) 421 (Ram Singh v. Union of India & Ors) where the observations made by the Hon'ble Supreme Court in the case of Ram Chander v. Union of India and Ors (A.T.R.1986(2) SC 252) have been quoted. From the quoted part, it would be found that Their Lordships of the Supreme Court stated that it was of utmost importance

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after the Forty-Second amendment as interpreted by the majority in Tulsi Ram Patel case that the Appellate Authority must not only give a hearing to the government servant but also pass a reasoned order dealing with the contentions raised by him in the appeal. After quoting these observations of the Hon'ble Supreme Court, the Chandigarh Bench went on to say, "We feel that in view of the aforesaid ruling, the appellate authority should have given him a personal hearing even though the applicant did not ask for such a hearing." These observations of the Chandigarh Bench of the C.A.T. are binding on us unless we differ and refer the matter to a larger Bench. But in view of the observations of the Supreme Court quoted in the judgment of the Chandigarh Bench, we do not feel any necessity to make a reference or to enter into a further detailed discussion about the contentions raised by Mr. Rath basing on the rules 12 to 15 of the E.D. Agents ( Conduct & Service ) Rules, 1964.

3. We would accordingly quash the appellate order (Annexure-4) and remit the case back to the appellate authority to dispose of the appeal within a period of three months from the date of receipt of this order after affording an opportunity of personal hearing to the applicant. There shall be no order as to costs.



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VICE- CHAIRMAN

*[Signature]*  
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MEMBER (JUDICIAL)