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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No. 341 of 1988

Date of decision : May 26, 1989.

Rabindranath Ghadei, Ex-E.D.B.P.M.,
Goudagop, E.D.B.O., in account with
Nischintakoili, S.O. under Kendrapara
H.O., Dist-Cuttack. ... Applicant.

Versus

1. Union of India, represented by the Secretary, Department of Posts, New Delhi.
2. Postmaster General, Orissa Circle, At/P.O. Bhubaneswar, Dist. Puri.
3. Superintendent of Post Offices, Cuttack North Division, At, P.O. and District-Cuttack.
4. Shri K.D. Mallik, Inquiry Officer cum A.S.P.Os. (D), Cuttack North Division (Postal), At/P.O./District-Cuttack.

... Respondents.

For the applicant ... M/s. Devanand Misra
Deepak Misra,
R.N. Naik, Advocates.

For the respondents ... Mr. A.B. Mishra,
Senior Standing Counsel (Central)

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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)

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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 ? Yes.
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

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K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash Annexures 1, 2 and 3 namely Annexure-1- enquiry report; Annexure-2, order passed by the disciplinary authority removing the applicant from service and Annexure-3, the order passed by the appellate authority dismissing the appeal of the applicant.

2. Shortly stated, the case of the applicant is that while he was functioning as Extra-Departmental Branch Postmaster, Goudagop, he was put off from duty on 7.11.1986 on a contemplated proceeding and charge ^{sheet} was delivered on 6.7.1987. The following charges were framed against the applicant.

Article -I. The applicant is said to have accepted a sum of Rs. 30/- only on 4.2.1984 from one Shri K.C.Nayak to be deposited into his S.B.A/c No.531017 but the amount was not credited till 14.2.1984 in contravention of the relevant rules.

Article II- While the applicant was functioning as Extra-Departmental Branch Postmaster, Goudgop he allowed withdrawal of money unauthorisedly from account Nos.532888, 99922, 99927, 532925 and 99903 on 21.1.1985 to a person other than the depositors.

Article III- During the aforesaid period the applicant did not show particulars of withdrawal of Rs.140/- on 17.9.1984 in R.D.A/c No.7882 and made 11 fake deposits at the rate of Rs.20/- each in the said R.D.account.

Article IV- The applicant did not show withdrawal of Rs.70/- taken by him on 7.7.1986 on behalf of his minor son in S.B.A/c No.532670 resulting minus balance of Rs.64.90 paise.

Article V- The applicant retained excess cash in hand than the prescribed limit.

Article VI- The applicant did not hand over certain money orders to the Extra-Departmental Delivery Agent, Goudgop for effecting payment soon after those were received in the Post Office.

The Enquiring Officer found that Article I of the charge was not proved, Articles III and VI were partly proved whereas other articles of charge namely Articles II, IV & V were fully proved and 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 there being no violation of the principles of natural justice during the course of enquiry and the case being one of full proof evidence, the order of punishment should not be unsettled - rather it should be sustained. The case being devoid of merit is liable to be dismissed.

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. We have gone through the pleadings of the parties and the relevant documents on the basis of which the charge is said to have been brought home against the delinquent officer. We do not like to express any opinion on the merits of the case because of the infirmities appearing in this case. The disciplinary authority has come to his conclusions without

discussing the evidence so much so we feel that the order passed by the disciplinary authority is without any ^{any} reasons and after stating the facts he has abruptly come to the conclusion agreeing with the findings of the enquiring officer. In three lines he has disposed of the entire case saying that he fully agrees with the findings of the enquiring officer. This is not compliance with the law which requires the disciplinary authority to discuss in detail the evidence of the prosecution witnesses on the basis of which he comes to a conclusion finding the applicant guilty of the charges. This is a serious infirmity appearing in the order of the disciplinary authority.

5. Coming to the order of the appellate authority, it also equally suffers from the said infirmity. The appellate authority says he has gone through the records and without discussing the evidence passes a cryptic order by saying that the charge has been brought home against the applicant. The appellate authority has not discussed the evidence in respect of each of the charges. He has touched some of the charges and has based his conclusions on certain statements made by the applicant during the course of preliminary enquiry and without discussing the evidence has abruptly come to the conclusion that there is no ground for interference. Law is well settled that the appellate authority should discuss the evidence in detail and then only could come to his own conclusions.

The appellate authority not having done so, the applicant has been seriously prejudiced and there is considerable force in the contentions of Mr. Deepak Misra that on this count, the order of conviction is liable to be set aside.

6. Due to the aforesaid infirmities appearing in this case we hold that the order of conviction of the applicant cannot be sustained and hence it is hereby set aside and the applicant is exonerated of the charges. We further direct that the applicant should be reinstated to service within two months from the date of receipt of a copy of this judgment. The applicant shall not be entitled to any back wages.

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

Agreed
26.5.89
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Member (Judicial)

B.R. PATEL, VICE-CHAIRMAN,

I agree.

B.R. Patel
26.5.89
.....
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench : Cuttack.

May 26, 1989/Sarangi.

