

6

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK.

ORIGINAL APPLICATION NO: 344 of 1988

Date of decision: 5.4.1991

Bimbadhar Kunar

: Applicant

Versus

Union of India and others

: Respondents

For the applicant

: M/s S.K.Mohanty,
S.P.Mohanty, Advocates

For the Respondents

: Mr. T.Dalai, Additional
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)

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

.....

7

JUDGMENT

B.R.PATEL, VICE-CHAIRMAN :

The applicant who was the Extra Departmental Branch Post Master, Jayapur Branch Office within the jurisdiction of the Superintendent of Post Offices, Bhadrak Postal Division within the District of Balasore was proceeded against for not crediting to the Government account an amount of Rs.440/- which he received on 24.2.1986 as deposit in the S.B.Account No.915780 belonging to one Srimati Chhayarani Das. The allegation was duly enquired into. The enquiry officer submitted the enquiry report dated 9.2.1988 (Annexure-1) exonerating the applicant of the charge holding him not guilty. The disciplinary authority i.e. Respondent No.3 did not accept the findings of the enquiry officer. Instead he held that there was strong probabilities heavily weighed against the applicant to the effect that he actually received the amount of Rs. 440/- on 24.2.1986 but did not credit it to the account of Government. There upon, he passed order imposing the penalty of removal from

D. N. V.

//3//

8

service on the applicant with immediate effect vide his order dated 29.4.1988 (Annexure-2). The appeal preferred by the applicant before the Additional Post Master General Orissa, Bhubaneswar was rejected vide order dated 2.8.1988 (Annexure-3). The applicant, thereupon moved the Tribunal for orders to quash Annexures-2 and 3 to the application.

2. The Respondents in their reply have maintained that the Departmental proceeding has been finalised with due regard to Rules and procedure and there being no irregularity the order passed against the applicant should not be interfered with.

3. We have heard Mr. S.P. Mohanty the learned Counsel for the applicant and Mr. Tahali Dalai the learned Additional Standing Counsel (Central) for the Respondents and perused the relevant records. We have found while going through Annexure-2 i.e. the order of the Disciplinary Authority i.e. Respondent No. 3 that a copy of the enquiry report dated 9.2.1988 (Annexure-1) had not been sent to the applicant in order to enable him to make representation if any, before the penalty of removal from service was imposed on him. In fact a copy of the enquiry report was enclosed to the penalty order and mentioned there of

Penk

//4//

9

has been made in the order of penalty itself. This has prejudiced the applicant as has been held by the Full Bench of the Tribunal in Premnath K.Sharma Vs. Union of India reported in 1988(3) SLJ 449 and the judgment of the Hon'ble Sureme Court in the case of Mohd.Ramzan Vs. Union of India reported in 1990 (3) judgments today 456. The order of the disciplinary authority imposing the penalty of removal from service dated 29.4.1988(Annexure-2) and the order of appellate authority rejecting the appeal are hereby quashed. The Departmental authorities may proceed with the enquiry if they so decide after supplying a copy of the enquiry report to the applicant to enable him to make representation in his defence. The applicant is free to make his averments which he has made in his application and during the hearing of the case, before the Disciplinary authority. We have not gone into these averments because we feel that our decisions thereon might prejudice the case of the applicant before the disciplinary authority.

4. This application is accordingly disposed of leaving the parties to bear their own costs.



.....
MEMBER (JUDICIAL)

.....
VICE-CHAIRMAN