

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 352 of 1988.

Date of decision : May 15, 1990.

Radhakrushna Jena --- Applicant.

Versus

Union of India and others ... Respondents.

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

For the respondents ... Mr. Ganeswar Rath,
Standing Counsel (Central)

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CORAM:

THE HON'BLE MR. R. BALASUBRAMANIAN, MEMBER (ADMN.)

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THE HON'BLE MR.N.SENGUPTA, 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? No.
3. Whether Their Lordships wish to see the fair copy of the judgment? Yes.

JUDGMENT

N.SENGUPTA, MEMBER (J) The applicant is a Postal employee and on the date of application was working as an Assistant Post Master (Accounts) in Jaleswar Head Office. Prior to that the applicant worked as Postmaster, Balasore Head Office and he was also the Assistant Postmaster (Accounts).

in Balasore Head Office from 11.2.1984 till at least upto 31.8.1986. A minor penalty charge-sheet was served on him and the charges were that while he was working as Postmaster, Balasore Head Office he engaged outsiders in place of one leave reserve Group D official who had proceeded on leave for 8 days on daily wage basis. He also engaged outsiders in place of other Group D employees on certain dates mentioned in the charge, and those outsiders were engaged on daily wage basis. The allegation in that charge further was that there was really no necessity to engage outsiders on payment of total amount of Rs.177.70 paise when leave reserve Group D officials were available. The 2nd charge was that while the applicant was working as Asst. Postmaster (Accounts) Balasore Head Office, he received two memos informing of the abolition of two group D posts in Balasore Head Office and also about the abolition of supernumerary posts. The applicant made necessary notes in the Establishment Register of Postmaster, Balasore Head Office, engaged some outsiders on daily wage basis against Group D posts when leave reserve officials of that category were available and the work could be got done through the leave reserve officials. It was the duty of the applicant as Assistant Postmaster (Accounts) to bring to the notice of the Postmaster ^W for the irregularities in the appointment or engagement ^W in daily wage basis and as such the applicant failed in his duty to do so, there was a loss

*Neeraj Singh
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of Rs.13,004.05 to the Government. After the enquiry the Superintendent of Post Offices, Balasore Division found the applicant to have neglected in his duties and ^{to have} thus, ^A acted in a manner unbecoming of a Government servant. He passed an order for recovery of Rs.6679.75 paise from the pay of the applicant in 14 (fourteen) monthly instalments @ Rs.500/-, the last instalment being Rs.179.75 paise. This order was passed on 30.3.1988. Against this order an appeal was preferred to the Additional Postmaster General, Orissa who by order dated 11.7.1988 rejected the appeal. Against these two orders the applicant has preferred this application asking for quashing the orders of punishment.

2. In the reply in counter, the respondents have averred facts relating to the abolition of some Group 'D' posts which need not be stated. In the counter, facts mentioned in the application have been rebutted and in addition to this it has been alleged that the applicant not only himself engaged persons on daily wage basis which was highly irregular but also he ^{to} wrote the Postmaster to draw the money and pay to persons whose appointments were irregular. They have also alleged that the whole loss to the Department was apportioned between the applicant and other other person who was acting as the Postmaster of Balasore Head Office during the time the applicant was A.P.M. (Accounts).

Mani Lal 17/1/90

3. We have heard learned counsel for the applicant and Mr. Ganeswar Rath, learned Standing Counsel (Central) for the respondents and perused the annexures annexed to the application and the counter. From Annexure-R/2 a list of posts abolished in the Balasore Division is to be found. Annexure-R/7 is the duty charge of the A.P.M. (Accounts). During the course of hearing no dispute has been raised about the availability of leave reserve Group 'D' officials when outsiders were engaged. There has also been no controversy about the duty of the applicant to prepare bills as an Assistant Accounts Officer. The applicant in the disciplinary proceeding took the stand that he had not appropriated any money himself and the payments were made to persons who really worked for the Department, therefore, the charge was misconceived. He also took the stand that when he was the Assistant Postmaster it was not open to him to question the action of the Postmaster in appointing outsiders even when leave reserve persons were available, had he objected, it would have been breach of official discipline and decorum, he being then under the control of the Postmaster who was the head of the Office. True it is that an Assistant Postmaster may not like to question the action of his immediate superior but when rules enjoin a duty to do such questioning, duty must take precedence over what in common parlance may be called official decorum. From Annexure-R/7 it would be found that it was the duty of the applicant to check the

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bills and he could have objected to pass the bills to outsiders or at least he should have brought the irregularities to the notice of the Postmaster. Had he done that and even inspite of such pointing out had the then Postmaster passed orders for payment, the applicant might have had got a case but that was not done. This Tribunal is concerned with finding whether there was any irregularity in the conduct of the disciplinary proceeding which would amount to a denial of natural justice and to see if there was absolutely no basis for the starting of the departmental proceeding. We have been taken through all the papers and learned counsel for the applicant has not been able to show any irregularity in the conduct of the disciplinary proceeding and as x has been shown above it is not a case where disciplinary proceeding lacked a basis. It is now settled beyond all pales of controversies that this Tribunal does not possess jurisdiction to interfere with the punishment imposed, if such punishment can be inflicted under the Rules. Recovery of loss is one of the punishments under Rule 11 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965.

4. For the reasons mentioned above, we would reject the application but however in the circumstances we do not pass any order as to costs.

T. Palasubramanian

Member (Administrative)

15/07/90

Neelakant
15/07/90
Member (Judicial)

