

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.43 of 1988.

Date of decision : August 18, 1988.

Pramod Kumar Pradhan, son of
Sri Gopinath Pradhan, Ex-Postman,
Pottangi S.O., At/P.O. Pottangi,
Dist. Koraput. At present C/o Kalinga
Grantha Mandir, Rayagada, Koraput. ...

Applicant.

Versus

1. Union of India, represented by its Secretary, Department of Posts, Ministry of Communication, New Delhi.
2. Member (Personnel) Postal Services Board, Government of India, Ministry of Communication, Department of Posts, New Delhi-110001.
3. Director of Postal Services, Sambalpur Region, Sambalpur-768001.
4. Senior Superintendent of Post Offices, Koraput Division, Jeypore (K) 764001.
5. Asst. Superintendent of Post Offices, In-charge Koraput Sub-Division, Koraput.

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Respondents.

For the applicant ... M/s. D.P. Dhalsamant,
S.P. Singhsamant,
S.K. Satpathy, A.K. Patnaik,
A.K. Kanungo, & G.S. Namtour,
Advocates.

For the respondents ... Mr. A.B. Mishra, Senior 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 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

K.P. ACHARYA, MEMBER (J)

In this application under section 19 of the Administrative Tribunals Act, 1985, removal of the applicant from service vide Annexure-3 is under challenge.

2. Shortly stated, the case of the applicant is that while he was working as a Postman at Pottangi in the district of Koraput, on 11.9.1979 a money order amounting to Rs.100/- was entrusted to him to be paid to the payee, Seshadev Sahoo. According to the prosecution, the money order in question was paid on 30.9.1979 though the applicant has managed to forge the signature of Seshadev Sahoo showing in the relevant document that the money order was paid on 11.9.1979. A regular enquiry was conducted and the Enquiring Officer found the applicant guilty of the charge and accordingly submitted his finding to the disciplinary authority who in his turn ordered removal of the applicant from service. The matter was carried in appeal and by order dated 29.10.1981 vide Annexure-5, the appellate authority, Shri U.Srinivasa Raghavan, Director of Postal Services, Sambalpur Region, ~~xxxxxxxx~~ set aside the order of punishment and remanded the case for *denovo* enquiry. After *denovo* enquiry was held, the fate of the applicant did not change and he faced similar order of removal from service and his appeal to the higher authority proved futile. Hence, this application.

3. In their counter, the respondents maintained that no illegality/irregularity having been committed during the course of enquiry and principles of natural justice not having been

violated in any manner whatsoever and this being a case of full proof evidence, the Bench should not interfere and the order of punishment should be sustained.

4. We have heard Mr.D.P.Dhalsamant, learned counsel for the applicant and learned Senior Standing Counsel (Central), Mr.A.B.Mishra at some length. We perused the charge framed in this case . It runs thus :

" Sri P.K.Pradhan while working as Postman, Pottangi was entrusted with Temporary P.O.631 M.O.No.1271 dt.8.9.79 for Rs.100/-payable to Seshadev Sahoo Eri Seed Sub-Station,Pottangi on 11.9.79, Sri Pradhan acknowledged receipt of the money order and its value in the register of money order received signed the M.O. form himself and showed it as paid to Sri Seshadev Sahoo on 11.9.79. Thus Sri P.K.Pradhan failed to maintain absolute integrity."

On a reading of the charge, we first had an impression that money was actually paid to Seshadev Sahoo on 11.9.79. But on a reading of the enquiry report and hearing learned Senior Standing Counsel (Central) we were of the opinion that the crux of the charge conveys the case of the prosecution to the extent that the money in question was paid by the applicant on 30.9.1979 through the applicant had managed to fabricate and manufacture documents by way of forgery to show that the money was paid on 11.9.1979. Being literate persons as we are and being acquainted with law if we can carry such an impression on reading of the charge, it cannot but be conceived easily as to what impression or knowledge could be formed by the delinquent officer when a defective charge of this nature was delivered to him requiring him to answer the charge. Learned Senior Standing Counsel (Central) did not rightly and fairly dispute this position but he submitted before us that this not being a regular criminal trial the Bench should not meticulously analyse the charge. We are unable to agree

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with learned Senior Standing Counsel (Central) because a departmental proceeding is a quasi-criminal trial as has been observed in the case of *Union of India v. H.C. Goel*, reported in A.I.R.1964 S.C.367 and therefore even in a departmental enquiry charge is the main foundation of the case. If the charge is not clear and ambiguous and defective, it cannot be expected of the delinquent to adequately and properly answer the same and therefore the benefit is bound to go to the delinquent officer. Not only we are of the view that the charge is defective but the very same view was rightly taken by the appellate authority i.e. Mr. U. Srinivasa Raghavan, Director of Postal Services, Sambalpur Region in his judgment mentioned above. He observed as follows:

" Further the charge sheet under reference is not specifically mentioning the violation of any specific rules, thereby rendering itself open to criticism. "

Due to the aforesaid defect in the charge, the case was remanded by the appellate authority with a direction that there should be a *denovo* enquiry conducted right from the state of initiation of proceedings containing the charge sheet. The appellate authority by such an order or direction meant that the charge should be amended and very unfortunately neither the disciplinary authority nor the Enquiring Officer took care and pain to get the charge amended and serve the applicant with an amended charge. Such being the situation we think that the benefit resulting from a defective charge must go to the delinquent officer.

5. Next, coming to the merits of the case, the fact that the applicant was the author of the forgery is not substantiated by any evidence ~~far~~ less to speak of credible

evidence. The only evidence on which learned Senior Standing Counsel (Central) relied upon is the evidence of Seshadev Sahoo who denies the fact of his signature in the money order form. That does not conclusively prove that the applicant has forged the signature of Seshadev Sahoo. In all fairness the admitted signature of Seshadev Sahoo and the signature occurring in the acknowledgment slip (Money order form) along with the admitted handwriting of the applicant should have been sent to the expert soliciting opinion of the expert as to whether the handwriting alleged to be the signature of Seshadev Sahoo is in the hand of the applicant, Shri Pramod Kumar Pradhan. Without such an evidence one cannot conclusively find that the author of the forgery is nobody other than the applicant. Taking into consideration the circumstances stated above we are of opinion that the prosecution has failed to prove its case that the applicant had forged the signature of Seshadev Sahoo by his own hand and has also committed delay in payment of the money order in question. Therefore, the applicant is exonerated from the charge and impugned orders of the enquiring officer and that of the disciplinary authority removing the applicant from service and the appellate authority confirming the order passed by the disciplinary authority are quashed and the applicant is acquitted. It is further directed that the applicant be reinstated in service within two months from the date of receipt of a copy of this judgment. The applicant would not be entitled to any back wages.

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

legally done
18.8.88
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.



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18.8.88
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
August 18, 1988/S.Sarangi.