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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.73 of 1988

Date of decision: 8th October, 1990.

Jagabandhu Satapathy
S/o Pravakar Satapathy
aged about 43 years,
EDBPM, Brahamansuanlo Branch Post Office,
in account with Balkati Sub Post Office.

..... Applicant

-Vs-

1. Union of India, represented
by the Postmaster General,
Orissa Circle, Bhubaneswar.
2. Senior Superintendent of Post Offices,
Bhubaneswar Division, Bhubaneswar.

..... Respondents

For the applicant. M/s. Pramod Kumar Mohapatra and
Prasanna Kumar Mohapatra, Advocates

For the Respondents Mr. Ganeswar Rath

C O R A M :

THE HON'BLE MR. B. R. PATEL, VICE-CHAIRMAN
A N D

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed
to see the judgement ? Yes.
2. To referred to the Reporters or not ? X/6
3. Whether Their Lordships wish to see the fair
copy of the judgement ? Yes.

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(14)

:- J U D G E M E N T :-

N. SENGUPTA, MEMBER (J)

The applicant has sought the relief of quashing of the order of the Senior Superintendent of Post Offices Bhubaneswar Division dated 29.8.89 vide Annexure-2.

2. The material facts are that the applicant was the EDBPM of Brahamansuaulo Branch Post Office during the period from October, 1983 till April 1984 and thereafter. A deposit of Rs. 1000/- was made by one Jata Kishore Bhoi on 9.10.83 but not shown in the B.O. accounts till April, 1984. The applicant had not shown the deposit of Rs. 1000/- in the B.O. Account. For this he was charged with temporary misappropriation Rs. 1000/- vide Annexure-1. An Inquiry was made and after that the Senior Superintendent of Post Office (Respondent No. 2) passed the impugned order directing removal of the applicant from the date he was put off duty. The applicant preferred an appeal but the same was rejected by the Addl. Post-Master General Orissa Circle, by his order dated 25.11.86 vide Annexure-3 to the application. The stand of the Respondents is that the applicant not having reflected the deposited amount in the accounts of the post office from 19.10.83 till 15.4.84 committed temporary misappropriation of the said amount for the aforesaid period.

3. We have heard Mr. P. K. Mohapatra for the applicant and Mr. Ganeswar Rath for the Respondents and perused the papers. The question that arises for consideration is whether on the materials before the Disciplinary Authority could it

As per Encl 8.10.90.

be said that there was temporary misappropriation of the amount. From the report of Inquiry it would be found that the applicant made entries in the pass book of the depositor B.O. Journal but not in the B.O. Accounts on 19.10.83. During the course of inquiry as we find none of the witness in the Department stated of the applicant having utilised the money for any purpose or the amount not to have been in the cash of the Branch Office. It may be that the applicant committed irregularity in not entering the amount in the concerned Account Register but it can not be said that he misappropriated the amount. Therefore, there is absolute lack of evidence of misappropriation and as such the finding regarding misappropriation is un-sustainable. Apart from that, no copy of the report of enquiry made by Assistant Superintendant Postal was supplied to the applicant before the imposition of penalty of removal. It has been held by a Full Bench by this Tribunal in the case of Premanath Sharama -Vs- Union of India and others reported in 1988 (3) SLJ 449 C.A.T. that unless ^a copy of the enquiry report is supplied to the charged officer, there would be denial of reasonable opportunity to the charged officer to defend himself. For these reasons we allow the application but however we would not award any costs as the applicant was not

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completely free from blame. We quash the orders of removal as per Annexure-2 and 3. The applicant be re-instated with ⁱⁿa month from the date of receipt of the copy of this order.

No costs.

B. N. Mohapatra 8.10.90

VICE-CHAIRMAN



M. S. Gupta 8.10.90

MEMBER (JUDICIAL)

Central Administrative Tribunal,
Cuttack Bench
Cuttack
8th October, 1990/Mohapatra.