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Date of decision : April 27, 1992.

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Applicant.

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M/s. S. P. Mohanty,
L. K. Sen, Advocates.

Mr. Aswini Kumar Misra,
Sr. Standing Counsel (CAT)

Sr. Standing Counsel (CAT)

A N D

CONFIDENTIAL

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Date of decision :April 27, 1992.

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Versus

Respondents.

M/s.S.P.Mohanty,
L.K.Sen, Advocates.

Mr. Aswini Kumar Misra,
Sr. Standing Counsel (CAT)

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THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN

A N D

THE HONOURABLE MR.C.S.PANDEY, MEMBER (ADMINISTRATIVE)

2000 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900

J U D G M E N T

K.P.ACHARYA, V.C., In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash the order passed by the Superintendent of Post Offices, Keonjhar, removing the applicant from service.

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3. In their counter, the respondents maintained that since in the explanation submitted by the applicant he had candidly admitted the charges framed against him, there was no further necessity of instituting a regular enquiry and law being well settled that conviction could be well founded on the admission of guilt of a particular delinquent officer, the Superintendent of Post Offices rightly found the applicant guilty of charges of the misappropriation and ordered removal of the applicant from service, the same should be sustained and in no circumstance it should be quashed.

4. With the consent given by counsel for both sides we have heard the case on merits.

5. Mr. S. Kr. Mohanty on behalf of Mr. S. P. Mohanty, learned counsel for the applicant strenuously urged before us that a completely wrong view has been taken by the Superintendent of Post Offices in construing Annexure-2 as ^{a piece} ~~the basis~~ of admission of guilt. The correct interpretation of Annexure-2 would be that the applicant was trying to explain as to how shortage of cash came to his knowledge and from that the Superintendent of Post Offices misread and mis-interpreted the contents of Annexure-2 and suddenly jumped into a conclusion that it was a piece of admission. Hence, the order of removal should be quashed, because a regular enquiry has not been conducted thereby causing prejudice to the applicant.

6. On the other hand, Mr. Aswini Kumar Misra, learned Senior Standing Counsel (CAT) contended that true it is the applicant was trying to explain (in Annexure-2) as to how
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shortage of cash came to his knowledge but custody of cash and control over cash of the Government being with the applicant and the applicant having failed to explain the disbursement, the competent authority rightly came to the conclusion that this amounts to admission of guilt and the applicant be removed from service. Therefore, according to Mr. Misra, the impugned order should be sustained.

7. We have given our anxious consideration to the arguments advanced at the Bar. We have absolutely no doubt regarding the proposition of law that a conviction can be well founded on the admission of guilt but the admission of guilt must be specific and in clear terms. One cannot lose sight of the fact that the applicant has been awarded a deterrent sentence i.e. removal from service. From the contents of Annexure-2 dual interpretation cannot be over-ruled. We cannot persuade ourselves to come to the irresistible conclusion that the contention of Mr. Misra ^{Misra} ~~Mohanty~~ that Annexure-2 is ~~not~~ a clear admission of guilt ^{and that} ~~but~~ ^{not only} it was an attempt made by the applicant to explain as to how shortage came to his knowledge. In such circumstances, we are of opinion that because a deterrent sentence has been awarded, the delinquent officer should be given full opportunity to ^{meet} ~~refute~~ the case of the prosecution. Hence, the order of removal from service of the applicant is hereby quashed and the case is remanded ~~xxx~~ back with a direction that a full-fledged enquiry must be conducted complying with the principles of natural justice and thereafter the Superintendent of Post Offices would be free to come to his independent conclusion.

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8. Since we have quashed the order of removal of the applicant from service on technical ground, the applicant would not be entitled to reinstatement or shall not be entitled to any back wages. The Superintendent of Post Offices would be free to pass such orders as permitted under the Rules to keep the applicant out of service.

9. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

Chandray
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MEMBER (ADMINISTRATIVE)
27.4.92

Legat
27.4.92
.....
VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
April 27, 1992/Saranghi.