

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACKBENCH: CUTTACK.

Original Application No. 188 of 1989.

Date of decision : April 27, 1992.

Trilochan Sethi ... Applicant.

Versus

Union of India and others ... Respondents.

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

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

C O R A M :

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

A N D

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

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

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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.

2. Shortly stated, the case of the applicant is that while he was functioning as Extra-Departmental Branch Postmaster, Khandabandha Branch Post Office in account with Joda Sub Office a set of charges were delivered to him and without any enquiry as contemplated under the Rules, the applicant was found to be guilty of the charges and was ordered to be removed from service. Hence, this application with the aforesaid prayer.

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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 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

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 preposition 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. Mohanty that Annexure-2 is not a clear admission of guilt but it was only 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 ^{defend} the case of the prosecution. Hence, the order of removal from service of the applicant is hereby quashed and the case is remanded ~~to~~ 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.

Chandrup
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MEMBER (ADMINISTRATIVE)

27.4.92

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K. S. Sarangi
27.4.92
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VICE-CHAIRMAN

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