

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A. No.222 of 1989.

Date of decision :- December 19, 1989.

Baishnab Charan Nanda,
Son of late B.B. Nanda,
Working as E.D.B.P.M.,
At/P.O.Sarakantara,
Bhubaneswar - 2.

.... Applicant

Versus.

1. Union of India, represented
by the Postmaster General, Orissa,
At/P.O. Bhubaneswar, Dist-Puri.
2. Senior Superintendent of Post Offices,
Bhubaneswar, District- Puri.

..... Respondents

For Applicant :- M/s. D. Pattnayak, S. Pattnayak

For Respondents :- Mr. Tahali Dalai, Additional
Standing Counsel (Central)

C O R A M :

THE HONOURABLE MR. B.R. PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. N. SEN GUPTA, 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.

J U D G M E N T.

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N. SEN GUPTA, MEMBER (JUDICIAL). The applicant was working as Extra-Departmental Branch Postmaster of Sarakantara Branch Post office under Bhubaneswar Division -II. A registered letter was despatched from that branch post office on 14.12.87. This registered letter was later examined as it was returned by the addressee and it was found that in fact the stamps affixed on the letter were really ones previously used. Some enquiry was made by the postal authorities and it was ascertained that the applicant allowed his minor grand daughter Sabita Sundari Das to perform the duties of the Branch Postmaster. On these allegations, a departmental proceeding commenced in which there were three articles of charge, really the charges were two because the first and the third charges related to the using of the previously used stamps ^{on} ~~from~~ the registered letter. An enquiry was made and the Enquiry officer found charges 1 and 2 to have been proved but not the charge No.3. The disciplinary authority accepting the enquiry report, imposed ~~the~~ penalty of removal from service. Against this, the applicant has come up to this Tribunal.

2. For what is going to be stated below, it is unnecessary to set out all the facts alleged in the counter, it would be sufficient to say that the respondents have maintained in their counter that the applicant was guilty of both the charges.

3. We have heard Mr. D.R.Patnaik for the applicant and Mr. Tahali Dalai for the respondents. During course of

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19.12.87

arguments and on perusal of the application and the counter it appears that the applicant has come to this Tribunal before exhausting the remedy of appeal provided for under the departmental rules. Therefore, this application may be said to be premature in view of the provision^{of} section 20 of the Administrative Tribunals Act, 1985. In section 20 the word 'ordinarily' has been used but we are not inclined to treat this as extraordinary case so as to decide the matter finally before exhausting the departmental remedy. However, since it has been very strenuously argued by Mr. Patnaik that the order of the disciplinary authority is based on a presumption and that a disciplinary proceeding is a quasi-criminal proceeding in which such presumption ought not to have been raised, in deference to him, we simply notice that argument. He has invited our attention to the observation of the disciplinary authority that as the applicant had made the deposit of Rs.5.60 paise, the value of the stamps alleged to have been affixed, a presumption was to be drawn that he was responsible for the user. His further contention is that the deposit was really made under the direction of the superior authority of the applicant. Therefore it was ^{- not -} in free exercise of discretion and as such it should not have been utilised as a circumstance against the applicant. As we are going to allow the applicant to first exhaust his departmental remedy, we express no opinion on this contention. The applicant is free to prefer an appeal to the appropriate authority within a month and after the appeal is preferred, the appellate authority should dispose it of within six months thereafter.

Mr. Eup
19/11/24

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4. The application is accordingly disposed of. No costs.



M. S. Gupta
19.12.89.

MEMBER (JUDICIAL)

B.R. PATEL, VICE-CHAIRMAN.

I agree.

B. R. Patel
19.12.89

VICE- CHAIRMAN.

Central Administrative Tribunal,
Cuttack Bench, Cuttack,
December 19, 1989/ Jena, SrPA.