

GENERAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 300 of 1989

Date of decision: 20<sup>th</sup> June, 1990

1. Shri Raghunath Parhi  
Ex-E.D.B.P.M., Kaipada B.O.,  
Dist.Balasore, at present residing  
at Ayatpuri, P.O.Kaipada, Dist.Balasore.

..... Applicant

-Versus-

1. Union of India represented through  
its Secretary, Department of Posts,  
Dak Bhavan, New Delhi.

2. Chief Postmaster General, Orissa,  
At/P.O. Bhubaneswar, Dist. Puri.

3. Superintendent of Post Offices,  
Bhadrak Division, At/P.O. Bhadrak,  
District-Balasore.

..... Respondents

For the Applicant. ..... M/s. Devanand Misra,  
Deepak Misra, A. Deo,  
B. S. Tripathy & R. N. Naik.

For the Respondents .... Mr. Aswani Kumar Misra  
Standing Counsel (Central)

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C O R A M :

THE HON'BLE MR. B. R. PATEL, VICE-CHAIRMAN  
AND  
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 ? No.

3. Whether Their Lordships wish to see the fair  
copy of the Judgement ? Yes.

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:- JUDGEMENT :-

N. SENGUPTA, MEMBER (J)

In this application reliefs prayed for are to quash the order of punishment of removal from service passed by the Superintendent of Post Offices, Bhadrak Division, Bhadrak and the appellate order copy of which is Annexure-2 to the application.

2. To put in brief, the allegations of the applicant who was working as E.D. B.P.M., Kaipada are that he was charged for not having credited to Govt. account a Savings Bank deposit of Rs.300/- received by him on 1.10.1983. After the charge and the explanation by the applicant in the disciplinary proceeding, an Enquiry Officer was appointed who enquired into the allegation by examining witnesses. The Inquiry Officer in his report expressed doubts as to whether the allegations against the applicant were really proved. The Disciplinary Authority i.e. Respondents No.3 did not agree with the report of the Inquiry Officer and found that the charge levelled against the applicant was proved. Having held thus the Superintendent of Post Offices, Bhadrak passed the order of removal of the applicant from service on 27.2.86. The applicant appealed to Respondent No.2 and the Additional Post Master General who eventually dealt with the appeal dismissed the same on 7.8.86. It is further alleged by the applicant, in a separate petition, that he had made a representation to the Director General of Posts against the orders of Respondent No.2 and 3 and has no reply was received from the Director General of Posts and he failed, there was some delay in filing the Original Application and this delay is to be condoned.

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3. The case of Respondents is that both the Disciplinary and the Appellate Authorities applied their minds to the evidence adduced during the inquiry and other relevant materials, where after they came to the conclusion that the applicant lacked devotion to duty by not accounting for the money that he (applicant) received as deposit in Savings Bank account of the person. Therefore, the order of removal from service was justified and should not be interfered with.

4. We have heard Mr. Deepak Misra for the applicant and Mr. Aswini Kumar Misra for the Respondents. With regard to the limitation it may be stated that no doubt no appeal under the Departmental rules lies to the Director General of Posts but the E.D.B.P.M. is not expected to be of such calibre as not to believe that an appeal to the Director General would be in-competent. Having regard to the status of the applicant and the circumstances of this case, we would condone the day.

5. It has been urged by Mr. Deepak Misra that the applicant was not given any opportunity to have his say before the Disciplinary Authority after submission of the report by the Inquiry Officer and thus there was a denial of reasonable opportunity to the applicant to defend himself. Mr. Deepak Misra has further contended that when the Disciplinary Authority had thought of differing from the conclusion of the inquiry officer, he should have noticed the applicant and heard him as provided under the Rules. Mr. Deepak Misra has raised some other contentions as well we need not refer to them. From the copy of the order of removal passed by the

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Disciplinary Authority, it would be found that before the order of removal was passed, no copy of the report of inquiry was given to the applicant. As has been held in Premanath Sarma's case, before an order of removal from service is passed, the charged Officer is entitled to a copy of the report and also an opportunity to make a representation against such report if it is against him or to support the report of inquiry if it is in his favour. As has been shown above, no copy of the inquiry report was given to the applicant before passing of the order of removal from service. Therefore, the order of removal cannot be sustained.

6. In the circumstances, narrated above, the applicant be afforded an opportunity to make a representation orally or in writing as he may choose, within a month from this date and within 3 months thereafter the Disciplinary proceeding be finally disposed of. The order at Annexure-1 and 2 are quashed and the case is remitted back to the Disciplinary Authority i.e. Respondent No. 3.

No costs.

*Amul 20.6.90*  
.....  
VICE-CHAIRMAN

*Neelam 6.90*  
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MEMBER (JUDICIAL)

