

G 1v

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 313 of 1989.

Date of decision: 19th January, 1990

1. Jayafam Kumbhar,  
son of Hazaru Kumbhar,  
At/P.O. Kantabanji,  
District-Bolangir. .... Applicant

-Vs-

1. Union of India, represented by its  
Secretary, Department of Posts, Dak Bhavan,  
New Delhi.
2. Chief Postmaster General, Orissa,  
At/P.O. Bhubaneswar, Dist. Puri.
3. Director of Postal Services,  
Sambalpur Region, At/P.O./Dist-  
Sambalpur.
4. Superintendent of Post Offices,  
Bolangir Division, At/P.O./Dist-  
Bolangir.

..... Respondents

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

For the Respondents .... Std. Counsel (Central)  
Mr. T. Dalei, Addl. Std. Counsel  
(Central).

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C O R A M :

THE HON'BLE MR. P.S. HABEEB MOHD, MEMBER (ADMN)  
A N D  
THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

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1. Whether reporters of local papers may be allowed  
to see the judgement ? Yes.
2. To be 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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: - J U D G E M E N T : -

P.S.HABEEB MOHD, MEMBER (A)

Jayaram Kumbhar, an employee of the Postal Department, who was working as Overseer, Mails, Kantabanji line, has challenged the Departmental Proceedings against him under the provision of the C.C.S. (CCA) Rules, on the ground that the explanation submitted by him was not properly appreciated by the Respondent No. 4 (The Superintendent of Post Offices) and this resulted in the order of punishment Memo No. F6-1/86-87 dated 31.8.83, wherein he was visited with the punishment of recovery of Rs. 5000/- from his pay at the rate of Rs. 140/- per month. The appeal preferred by him to Respondent No. 3, was rejected by him in Memo No. ST/RD/10-24-88 dated 29.11.83.

2. It is clear to us that the proceedings were drawn up on a minor penalty charge. The charge was that when the applicant visited the Turekela E.D.S.O. on three occasions during the period from February to April, 1986, he verified only a few pass books on one occasion and thereby defaulted in his duty of supervision. Because of this, the E.D.S.P.M./one E.Dash, had the chance to commit fraud to the tune of nearly Rs. 50,000/-.

3. The learned Counsel for the applicant pleaded the inexperience of the applicant <sup>a</sup> is a mitigating factor, which should have weighed with the Respondents <sup>b</sup> on properly assessing his degree of responsibility at the stage of award of punishment and the disposal of the appeal. It was stated that the punishment is disproportionate to the charges against him.

4. The respondents, have stated in their reply that the plea of non verification of pass books on the ground that <sup>depositor</sup> ~~depositions~~ were not available taken by the applicant is not tenable and he should have issued notices to the <sup>depositor</sup> ~~depositions~~ for the purpose of verification.

Ignorance of Departmental rules, cannot excuse the applicant. The orders of punishment have been passed after proper appfection of facts and circumstances and the appellate order is not vitiated in any way.

5. We have considered carefully the various contentions raised in the application and the reply and the arguments of the learned Counsel for the applicant and Mr. T. Dalei, learned Addl. S.C. for the Respondents. The scope for the Tribunal to interfere in matters of departmental proceedings is limited. This is not a case of no evidence or a case malafides or non-application of mind. The decision of the Supreme Court in Union of India -Vs- <sup>Panna</sup> ~~Purna~~ Nanda will govern this case. The decision of the Supreme Court in para-7 of the (A.I.R. 1989-S.C. 1185/1194 <sup>Para</sup> ~~page~~ 27 states as follows:-

"We must unequivocally state that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the inquiry Officer or competent authority where they are not arbitrary or utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the provision to Article 309

of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is mala fide is certainly not a matter for the Tribunal to concern with. The Tribunal also cannot interfere with the penalty if the conclusion of the inquiry officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter."

5. We cannot find any evidence that the Respondents-4 & 3 in either awarding the punishment or disposing of the appeal, committed any breach of the Rules and procedure. There are no grounds for the Tribunal to interfere and give the applicant, the relief he has sought for. The application is <sup>dismissed</sup> dismissed.

No costs.

MEMBER (JUDICIAL)



MEMBER (ADMINISTRATIVE)