

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO: 368 OF 1989

Date of decision: February, 26, 1991.

Smt. Adharbala Mohapatra : Applicant

Versus

Union of India and others : Respondents

For the applicant : M/s Devanand Misra,
Deepak Misra,
R.N.Naik, A.Deo,
B.S.Tripathy,
U.S.Agrawal,
Advocates.

For the Respondents No.1 to 4 : Mr. A.K.Misra, Sr.
Standing Counsel
(CAT)

For the intervenor (Res.No.5) : Mr. D.P.Dhalsamant,
Advocate

C O R A M:

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

AND

THE HONOURABLE MR. N.SENGUPTA, 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.
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J U D G M E N T

N.SENGUPTA, MEMBER (J), The applicant was working as Extra Departmental Branch Post Master (E.D.B.P.M.) of Jayantara Branch Post Office in the district of Cuttack. Against her a disciplinary proceeding was initiated and an enquiry was made. The Disciplinary Authority i.e. Respondent No.4 after going through the report of the enquiry officer passed the impugned order of removal from service with effect from 23.5.1989. It appears there were three articles of charges, one was that the applicant retained cash in excess of permissible limit on certain dates in March, 1985 by showing fictitious liability, the second was that she unauthorisedly allowed her husband to transact business in the Branch Post Office and the third was a refusal by the applicant to report or to answer questions put by the Assistant Superintendent of Post Offices, Jajpur with regard to the retention of excess cash. The enquiry Officer found the applicant guilty of the charges and the Disciplinary authority agreed with him. The applicant has prayed for quashing the order of removal.

2. For what we are going to state below, it is unnecessary to set out in detail all the averments made in the counter affidavit filed by the Respondents.

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Sengupta
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3. We have heard Mr. R.N.Naik learned Counsel for the applicant and Mr. A.K.Misra learned Senior Standing Counsel (CAT) for the Respondents and Mr. D.P. Dhalsamant learned Counsel for Respondent No.5 (Intervenor). On referring to the order of removal, it would be manifest that a copy of the enquiry report was supplied to the applicant alongwith the order of punishment. What the result in such a case would be, has been authoritatively laid down both by a Full Bench of this Tribunal in the case of Premnath K.Sharma Vs. Union of India reported in 1988(3) SLJ 449 and by the Hon'ble Supreme Court in the case of Union of India Vs. Mohd. Ramzan reported in 1990(4) Judgments today 456. In view, of these authorities, the impugned order of removal cannot be sustained ^{- and is -} accordingly quashed.

4. Mr. Naik has very strenuously urged that ^{taking into account the nature of the} charges levelled against the applicant and ⁱⁿ view of the fact that the considerable time has elapsed in the meantime, if the Disciplinary Authority is allowed to proceed from the stage just after the submission of the enquiry report to the disciplinary authority, injustice would be done to the applicant. After having perused the charges levelled against the applicant and the procedure followed by the enquiry officer as found from the Annexures to the reply in ~~the~~ counter, we do not find any illegality to have been

Mr. Naik

committed except the fact that no copy of the enquiry report was supplied to the applicant prior to the order of punishment. In such circumstances we cannot quash the ~~procedure~~^{proceedings} however, it is within the discretion of the Department to proceed or not to proceed further in the Disciplinary proceeding.

5. Mr. Dhalsamant has urged that ~~in~~ the interest of the Respondent No.5 should be safeguarded and he should not be disturbed or reverted back to E.D.D.A. from the Post of E.D.B.P.M., he was previously working as E.D.D.A., but this is a matter relating to the administration, we cannot, at the present moment pass any order.

6. This case is accordingly disposed of.
We make no order as to costs.

R. Mohanty 26.2.91
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VICE CHAIRMAN



Member 26.2.91
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MEMBER (JUDICIAL)

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty.