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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 468 of 1989.

Date of decision: 6.2.1992.

Nanda Kumar Mishra ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s. B. Pal,
S. C. Parija,
O. N. Ghosh, Advocates.

For the respondents ... Mr. Tahali Dalai,
Addl. Standing Counsel (Central)

C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN
A N D

THE HONOURABLE MR. J. C. ROY, 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 ? 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

K. P. ACHARYA, V. C., In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash the order of the disciplinary authority (Respondent No. 3) finding the applicant guilty of the charges levelled against him and the penalty of censure imposed over the applicant.

2. Shortly stated, the case of the applicant is that while he was serving as Headmaster, Gandahar Middle English School under the Dandakaranya Development Authority, a set of charges was delivered to the applicant levelling allegations against him that he was remaining absent from duty without authority etc. The Enquiring Officer found that the charges were not established against the applicant

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and accordingly submitted his findings to the disciplinary authority who in his turn disagreed with the findings of the enquiring officer and held that charge No.1 was not established and further held that charges 2 & 3 had been established and in furtherance thereof imposed minor penalty of censure over the applicant. Hence this application with the aforesaid prayer.

3. In their counter, the respondents maintained that rightly the disciplinary authority came to a finding that charges 2 & 3 had been established and there being no violation of principles of natural justice, the punishment imposed over the applicant should not be unsettled - rather it should be sustained and the case being devoid of merit is liable to be dismissed.

4. We have heard Mr.O.N.Ghosh, learned counsel for the applicant and Mr.Tahali Dalai, learned Additional Standing Counsel (Central) at a considerable length. We have also perused the reasonings assigned by the Enquiring Officer and the disciplinary authority. We would confine ourselves to charges 2 & 3. The disciplinary authority stated in his order that the villagers were unable to pinpoint the date and time of absence of the applicant. At this stage it ought to be mentioned that so far as the charge No.1 is concerned, it was alleged against the applicant that he had made false entries in the Attendance Register regarding his presence in the School. At the cost of repetition it may be stated that the charge is held to be not proved. Hence, so far as the

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charge No.2 is concerned, the disciplinary authority having come to a positive finding that none of the witnesses could ~~not~~ pinpoint the date and time of absence of the applicant and that the observation of the disciplinary authority ^{with} the general impression is that the applicant was irregular cannot persuade ^{us} ~~or~~ to come to a finding that the disciplinary authority was justified in travelling upon ~~the~~ conjectures and held that the charge No.2 had been established. In our opinion, so far as charge No.2 is concerned, this is a case of no evidence and therefore, the applicant is exonerated from charge No.2.

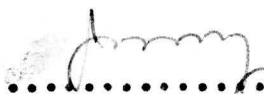
5. So far as the charge No.3 is concerned, it is held that the applicant did not receive the official letter from the Ministry on the ground that it was offered to the applicant in a public road and that the applicant was on leave. On this count the enquiring Officer has found that the applicant was not justified in not receiving the letter on the above mentioned grounds. There cannot be any second opinion that a Government employee, even on leave, is bound to receive ^a communication. The applicant admits to have refused to receive the letter on the above mentioned grounds which does not bear any justification on his part. Therefore, the disciplinary authority rightly found the applicant guilty of the said charge.

6. As regards the penalty imposed on the applicant even though we have found that charge No.2 not to have been established, we cannot interfere on the question of penalty because the minimum penalty has been imposed

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on the applicant and this Bench has no powers to interfere on the question of penalty in view of the law laid down by Their Lordships in the case of Union of India versus Parma Nanda reported in AIR 1939,SC 1185.

7. In the circumstances stated above, the case does not call for interference and hence it stands dismissed leaving the parties to bear their own costs.


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MEMBER (ADMN.)


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VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
/ Sarangi.