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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 51 of 1989.

Date of decision :- April 5, 1990.

Rudramani Naik ... ... Applicant

Versus.

Union of India and others... ... Respondents

For the Applicant .... M/s. Devanand Misra,  
Deepak Misra, A.Deo,  
and B.S. Tripathy

For the Respondents .... Mr. Tahali Dalai,  
Addl. 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 (JUDL.)

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1. Whether reports 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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JUDGMENT.

N. SENGUPTA, MEMBER (J). The applicant of this case was a Sub-Postmaster  
of Station Road Post office of Jharsuguda in the district  
of Sambalpur. A disciplinary proceeding was initiated  
against him alleging criminal breach of trust in respect of

*Neeraj 5/4/90*

misappropriation of Rs.3,000/- from the Savings Bank account of one Madan Singh. In the disciplinary proceeding the applicant was found guilty and an order of dismissal from service was passed against the applicant by the disciplinary authority on 30.6.86. Against this order of dismissal, the applicant preferred an appeal to the Director of Postal Services of Sambalpur Region and the said authority dismissed his appeal on 9.2.87. While a disciplinary proceeding was pending, a criminal case was instituted which, of course, was disposed of by the S.D.J.M., Jharsuguda on 12.8.88 i.e. after the disposal of the disciplinary proceeding and the appeal therefrom, and in the criminal case the applicant was acquitted of the charges of abetment and misappropriation. In the application the applicant has stated some grounds challenging the propriety of the order of dismissal passed by the disciplinary authority, but at the hearing, the grounds of challenge have been confined only to two, namely, non-supply of copy of the enquiry report before the disciplinary authority imposed the punishment of dismissal from service and the other one is that the appellate authority did not grant him a personal hearing before disposing of the appeal.

3. In the counter, the respondents have stated that after a due enquiry the applicant was found to have misappropriated the amount and accordingly the punishment of dismissal was passed.

4. We have heard Mr. Deepak Misra for the applicant

Ans Up<sup>r</sup>  
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and Mr. Tahali Dalai for the respondents. It has been urged by Mr. Misra that no copy of the report of the Enquiry Officer was supplied by the Disciplinary Authority to the applicant before he imposed the punishment of dismissal. Therefore, the punishment imposed cannot be sustained. This contention of Mr. Misra that no copy of the enquiry report was supplied to the applicant before the disciplinary authority imposed the punishment of dismissal is borne out by Annexure-2 to the application wherefrom it would be found that a copy of the report of the Enquiry Officer was supplied to the applicant along with the order imposing penalty of dismissal. It is unnecessary on our part to make a detailed discussion about the merits of the contention raised by Mr. Misra in view of the Full Bench decision of this Tribunal in the case of Premnath K. Sharma v. Union of India and others reported in 1988(3) S.L.J. 449 where it was held after referring to a number of authorities and to the provisions of Article 311 (2) of the Constitution of India that unless a copy of the report of the Enquiry Officer is supplied to the charged officer, it cannot be said that he was given a reasonable opportunity of being heard before the penalty was imposed. On that ground the punishment cannot be sustained and accordingly we will accept the contention of Mr. Misra and quash the order of punishment of dismissal passed by the Senior Superintendent of Post Offices, Sambalpur Division vide Annexure-2.

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5. With regard to the other contention concerning appeal, a reference to Annexure-4 may be made. From this annexure it would be found that the applicant was not given an opportunity of being heard in person. What the result <sup>be</sup> would in such a case has been decided by a Division Bench sitting at Chandigarh and also by another Division Bench of this Bench vide O.A.No. 273 of 1988 decided on 9.2.1990. In both the cases it was held that though there may not be an expression provision with regard to giving a personal hearing to the <sup>applicant</sup> ~~applicant~~, in the scheme of the rules and for following the principles of natural justice, an appellant should be given an opportunity of personal hearing even though he might not have expressly asked for it. As both the contentions raised by Mr. Misra would prevail, we would quash the order of the disciplinary authority and that of the appellate authority and direct reinstatement of the applicant in service within a month from the date of receipt of a copy of this judgment. This quashing of the two orders does not disentitle the disciplinary authorities from proceeding with the enquiry from the stage it was before imposition of the penalty of dismissal.

The application is accordingly disposed of.

No costs.

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VICE- CHAIRMAN.



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MEMBER (JUDICIAL)