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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No. 83 of 1989

Date of decision : May 17, 1989.

Gandharba Kishore Jena, Ex-Postal Assistant,
Athgarh Head Post Office at present vill. Sarada,
P.O. Mohan, Via-Rameswar, Dist. Cuttack.

... Applicant.

Versus

1. Union of India, represented by the Secretary, Department of Post, Dak Bhawan, New Delhi.
2. Postmaster General, Orissa Circle, Bhubaneswar, Dist. Puri.
3. Director, Postal Services, Sambalpur Region, Sambalpur-768 001.
4. Superintendent of Post Offices, Cuttack South Division, At/P.O./Dist. Cuttack.

... Respondents.

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

For the respondents ... Mr. A.B. Mishra, ~~Adv.~~
Senior Standing Counsel (Central)

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C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR. K.P. ACHARYA, MEMBER (JUDICIAL)

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1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? ~~Adv~~
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash the order passed by the competent authority removing the applicant from service.

2. Shortly stated, the case of the applicant is that while he was working as a Postal Assistant in Athgarh Post Office, a charge sheet was delivered to him on 13.10.1986 on an ^{allegation} ~~application~~ that the applicant had forged ^{the} signature of one Narayana Mishra, depositor of Savings Bank account No. 472741 and withdrew Rs. 7000/- without the knowledge of Shri Narayana Mishra and misappropriated the said amount. A full-fledged enquiry was conducted and the enquiring officer found the applicant guilty of the charge and accordingly submitted his findings to the disciplinary authority who concurred with the findings of the enquiring officer and ordered removal of the applicant from service which is under challenge.

3. In their counter, the respondents maintained that no illegality having been committed during the course of enquiry and principles of natural justice having been strictly followed and observed and the case being one of full proof evidence, the impugned order should not be unsettled-rather it should be sustained. Hence, the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. A.B. Mishra, learned Senior Standing Counsel (Central) at some length. We have perused the

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pleadings of the parties and we have also perused the relevant documents. We have absolutely no hesitation in our mind to hold that the charge has been fully established and hence, the applicant was rightly convicted.

5. So far as the quantum of penalty is concerned, Mr. Deepak Misra prays before us that a lenient view should be taken on the question of sentence and the applicant should be ordered reinstatement to service. This was opposed by learned Senior Standing Counsel (Central). We have given our anxious consideration to this aspect of the matter and we feel that misappropriation of Rs.7000/- cannot be condoned. Rather it is to be deprecated but at the same time we cannot lose sight of the fact that the applicant is a young man and has a bright future ahead and this being the first offence, we feel inclined to take a lenient view of the matter. While setting aside the order of removal from service, we direct that the applicant be demoted to the post of a Postman and we shall be happy if he is not allowed to handle cash and this demotion shall be effective for two years and furthermore, it is ordered that the applicant would deposit Rs.7000/- with 12 per cent interest per annum ^{hile deposit} from the date of drawal of the amount ^{1/4 less} within four months from today. After deposit of the entire amount the applicant be reinstated to service as aforesaid but the applicant shall not be entitled to any back wages.

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6. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

legally
..... 17.5.89
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

9 agree.



Ansari
..... 17.5.89
Vice-Chairman

Central Administrative Tribunal
Cuttack Bench, Cuttack.

May 17, 1989/Sarangi.