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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK

Original Application No. 182 of 1990

Date of Decision 24.4.1992

Jagannath Das Applicant

Versus

Union of India & others Respondents

For the applicant Mr. P. K. Rath,
Advocate

For the respondents Mr. A. K. Mishra
Standing Counsel
(Central Government)

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C O R A M

HON'BLE MR. K. P. ACHARYA, VICE-CHAIRMAN

AND

HON'BLE MR. C. S. PANDEY, MEMBER (ADMINISTRATIVE)

1. Whether the reporters of local newspapers may be allowed to see the judgment? Yes
2. To be referred to reporters or not? No
3. Whether Their Lordships wish to see the fair copy of the judgment? Yes

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JUDGMENT

KR .K.P .ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985 the petitioner prays to quash the order of punishment contained in Annexure-2 removing the petitioner from service.

2. Shortly stated the case of the petitioner is that while he was functioning as Postal Assistant in the General Post Office at Bhubaneswar a chargesheet was delivered to him on an allegation of having misconducted himself. A regular inquiry was conducted after which the Senior Superintendent of Post Offices accepted the inquiry report and ordered removal of the petitioner from service (contained -in annexure-2) which is under challenge and sought to be quashed.

3. In their counter the opposite parties maintain that there being overwhelming evidence to bring home the guilt against the petitioner and principles of natural justice having been complied in all respects, the case is devoid of merit and is liable to be dismissed.

4. There is no appearance on the side of the petitioner and we have perused the relevant documents with the assistance of Mr.A.K.Mishra, learned Standing Counsel and we have also heard Mr.Mishra on the merits of the case. On a perusal of Annexure-2 (the impugned order of punishment) -we find that the copy of the enquiry report was enclosed to the impugned order of punishment and therefore we can safely presume that a copy of the inquiry report was not delivered to the petitioner before the impugned order of punishment was passed. This case is directly covered by

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by the principles laid down by Their Lordships ~~of~~ the Supreme Court in the case of Union of India vs. Mohd. Romzan Khan reported in AIR 1991 SC 471. My Lord the Chief Justice Mr. R. N. Mishra speaking for the Court, at paragraph-18 of the judgment was pleased to observe as follows :

"We make it clear that wherever there has been an Inquiry Officer and he has furnished a report to the disciplinary authority at the conclusion of the inquiry holding the delinquent guilty of all ~~charges~~ or any of the charges with proposal for any particular punishment or not, the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge hereafter".

5. In the present case we have already found that copy of the inquiry report was not delivered to the petitioner before the ~~impugned~~ order was passed and therefore principles laid down by Their Lordships ~~of~~ the Supreme Court in the above mentioned judgment applies ~~in~~ full force ~~to~~ the facts of the present case and therefore we hold that principles of natural justice ~~have~~ not been complied so far as this aspect is concerned.

6. We would therefore quash the order of punishment contained in Annexure-2 and we would direct that as an abundant precautionary measure a copy of the inquiry report be given to the petitioner within 15 days from the date of receipt of a copy of this judgment and within 15 days therefrom the petitioner would file his representation, if so advised and thereafter ~~if~~ he demands a personal hearing, ~~it~~ should be allowed in his favour

and within 30 days from the date of closure of the proceedings the disciplinary authority should pass final orders.

7. Since we have quashed the order of punishment on a technical ground the petitioner shall not be reinstated, but he would continue to remain under suspension and he would not be entitled to any back wages. Final opinion of the disciplinary authority would govern the question of arrear pay etc. of the petitioner. Thus the application is accordingly disposed of leaving the parties to bear their own costs.

Ghandey
MEMBER (ADMINISTRATIVE)
24.4.92

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24.4.92
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 24th April 1992/Sahoo



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO: 182 OF 1990

Date of decision: June 24, 1994

Jagannath Das

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Applicant

Vs.

Union of India & Others

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Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? *no*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals *no* or not?


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

24 JUN 94

for 24.6.94
(K.P. ACHARYA)
VICE CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO;182 OF 1990

Date of decision: June 24, 1994

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|-------------------------|---|-------------|
| Jagannath Das | ... | Applicant |
| Union of India & Others | Vs. ... | Respondents |
| For the applicant | ... M/s. P.K.Ray, S.P.Rath, Advocates | |
| For the Respondents | ... Mr. Aswini Kumar Misra, Senior Standing Counsel (Central) | |

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CORAM:

THE HONOURABLE MR. K.P. ACHARYA, VICE-CHAIRMAN
AND
THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

J U D G M E N T

K.P.ACHARYA, V.C.

In this application under section 9 of the Administrative Tribunals Act, 1985, the petitioner Shri Jagannath Dash prays to quash the impugned order of punishment passed against the petitioner, contained in Annexure-2 dated 27th January, 1989 ordering removal of the Petitioner from Government service.

2. Shortly stated the case of the petitioner is that he is an ex-serviceman and had applied for the post of Postal Assistant. Appointment order was issued in his favour and the petitioner joined service on 12th February, 1982 as a Postal Assistant in the Accountant General Post Office, Bhubaneswar. While the petitioner was functioning as such, a preliminary enquiry was held by an Inspector of the Central Bureau of Investigation

in regard to the Educational Certificate submitted by the petitioner and the certificate filed by the petitioner to the effect that he was an exservice man. On 28th August, 1985, Opposite Party No.2 delivered a set of charges to the petitioner under Rule-14 of the Central Civil Services (Classification Control and Appeal) Rules, containing an allegation that the petitioner had secured a service in the postal Department on the basis of a false and forged certificate that he was an exserviceman. A regular enquiry was held and the enquiry officer held that the charge had been established. In his turn, the disciplinary authority i.e. the Senior Superintendent of post Offices, Bhubaneswar Division concurred with the findings of the enquiry officer and ordered removal of the petitioner from service which is under challenge.

3. In their counter, the Opposite Parties maintain that the case is involved with full proof evidence and principles of natural justice having been strictly complied with the case is devoid of merit and is liable to be dismissed.

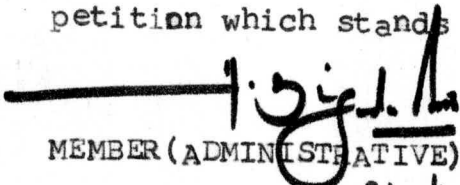
4. We have heard Mr. P.K. Ray learned counsel appearing for the Petitioner and Mr. Aswini Kumar Misra, Senior Standing Counsel (Central). At the outset, Mr. Ray learned counsel appearing for the Petitioner submitted

with vehemence that by no stretch of imagination, it can be said that the petitioner had forged the certificate and the handwriting stating the word 'yes' contained in Annexure- R/1 is not of the petitioner. It was further contended by Mr. Ray that the Government examiner of question documents has opined that the handwriting against Col.No.8 is not of the petitioner. From the enquiry report, we do not find anywhere as to whether the Government examiner of question documents had stated that the handwriting found against Col.No.8 is not of the present petitioner. We have carefully gone through the contents of Annexure R/1. Conceding for the sake of argument, the Government examiner of question documents even if had said that the handwriting found in Annexure R/1 is not of the petitioner, we are also of the view that the handwriting of the petitioner while signing the application does not tally with the handwriting found from the contents of Annexure- R/1. But the petitioner has passed the HSC examination securing 48.25 per cent marks and therefore, it is presumed that the petitioner is very well conversant with English language. It is inconceivable that somebody else would have filed an application for appointment without the knowledge of the petitioner. All the facts stated in Annexure- R/1 must have been on instructions of the Petitioner. In the column meant for enclosures


against Sl.No. 5, it is mentioned that true copy of the ex-serviceman discharge certificate is also enclosed. The certificate of discharge ~~formed~~ subject matter of Annexure-R/1. In the said certificate it is maintained that DASH JAGANNATH Board's Service No. 632591 in the Airforce. But from the enquiry report, it is found that S.W. 37 has deposed that the service No. 632591 mentioned in Ext. 48 (which pertains to Annexure-R/2) stands registered in the office records of the Indian Airforce, New Delhi in the name of one G. Singh and not in the name of Shri Jagannath Dash. It was further stated by the witness that Shri G. Singh is still in service in the Indian Airforce since 16th February, 1974. Therefore, the certificate contained in Annexure-R/2 cannot ~~but~~ be held to be a false and manufactured one.

5. Next question arises for consideration as to who could be the author of this forged certificate?. It is far beyond our comprehension that somebody else would have forged the certificate and would have filed the same along with the application filed by the petitioner. The most pertinent question which needs to be answered as to why a third person will do it for the petitioner?. To our ^{it} mind ~~it~~ appears to be an impossibility and propounderance of probability very much works out against the petitioner. In the circumstances stated above, we cannot hold that ~~case~~ to be one of no evidence. Therefore, while confirming

the findings of the disciplinary authority that the charges levelled against the petitioner have been brought home against him, we find no merit in this petition which stands dismissed. No costs.


MEMBER (ADMINISTRATIVE)

24 JUN 94


VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench/K. Mohanty/June , 1994.