

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.246 of 1990

Date of decision : July 13, 1991.

Krushna Chandra Acharya ... Applicant.

versus

Union of India and others ... Respondents.

For the applicant ... Mr.P.V.Ramdas, Advocate .

For the respondents ... Mr.Aswini Kumar Misra,
Sr.Standing Counsel (Central)

C O R A M:

THE HONOURABLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

A N D

THE HONOURABLE MR. I. P. GUPTA, 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.

4 (4)

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J U D G M E N T

N. SENGUPTA, MEMBER (J) The applicant was appointed as Branch Post Master of Birgobindpur on 27.3.1963. After having rendered service for a little more than 22 years, he was put off duty on 4.4.1985 as enquiries against him concerning certain allegations were being made. On 3.7.1987 charges were framed against him; an enquiry officer was appointed who submitted his report on 7.8.1988 to the disciplinary authority i.e. Respondent No.2. Respondent No.2 on 10.3.1988 agreeing with the report of the enquiring officer, imposed the punishment of removal vide Annexure-3 at page 17 to 21 of the file. The applicant preferred an appeal but did not meet with any success,

it was disposed of on 7.8.1990 . The applicant has approached this Tribunal for quashing the order of removal and for other ancillary reliefs.

2. The respondents have maintained that the applicant was proceeded against on charges of negligence in duty and a serious lapse of not accounting for money received by him in time which amounted to a temporary misappropriation besides non-delivery of certain registered articles.

3. Mr. Ramdas, learned counsel for the applicant has urged that in view of the fact that the enquiring Officer was a person other than the disciplinary authority and before the punishment of removal was imposed, no copy of the enquiry report having been supplied to the applicant, it is not necessary to enter into the factual or other aspect of the case. From Annexure-3 it would be found that a copy of the enquiry report of the enquiring officer was supplied to the applicant along with the order of the disciplinary authority removing the applicant. Law has been settled by a decision of the Hon'ble Supreme Court in the case of Md. Ramjan reported in AIR 1991 SC 471. The Hon'ble Supreme Court approving the decision of this Tribunal in Prem Nath K. Shrama's case held that if no copy of the enquiry report was supplied to the charged officer before imposition of penalty, it would amount to denial of opportunity and the punishment imposed cannot be sustained. Such being the law, we have no hesitation in saying that the order of

removal cannot be sustained and accordingly is quashed. The case is remitted back to the disciplinary authority for consideration if he would like to continue the proceeding and if he so likes, the applicant would be given an opportunity of making such representation he may like to and after considering the representation, the disciplinary authority may pass appropriate orders. Since copy of the enquiry report has been supplied there is no further necessity to supply another copy. If the disciplinary ^{authority} desires to proceed, the applicant should be noticed accordingly.

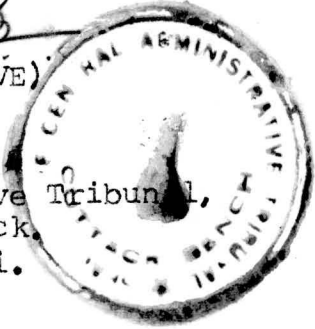
4. The case is accordingly disposed of. No costs.

J.P. Singh

 MEMBER (ADMINISTRATIVE)

M. S. Sarda 18/7/91

 MEMBER (JUDICIAL)



Central Administrative Tribunal,
 Cuttack Bench, Cuttack.
 July 18, 1991/Saranghi.