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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 247 OF 1990

Date of decision: April, 28, 1992

Gagan Bihari Patel

... Petitioner

-Versus-

Union of India and others

.. Opp. Parties.

For the Petitioner : Mr. P.V. Ramdas, Advocate

For the Opp. Parties : Mr. A.K. Misra, Sr. St. Counsel.

....

CORAM:

THE HONOURABLE MR. K.P. ACHARYA, VICE CHAIRMAN

AND

THE HONOURABLE MR. C.S. PANDEY, MEMBER (ADMN.)

...

1. Whether reporters of local papers maybe allowed to see the judgment? Yes.
2. To be referred to the reporters or not? *ND*
3. Whether Their Lordships wish to see the fair copy of the judgment? Yes.

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JUDGMENT

K.P. ACHARYA, V.C.

The Petitioner was functioning as Extra Departmental Branch Post Master in Babunikhtimal Branch Post Office in the District of Sambalpur. A set <sup>of</sup> ~~up~~ charges was delivered to the Petitioner on an allegation of misappropriation and ultimately vide order dated 30th December, 1988 contained in Annexure '4', the Senior Superintendent of Post Offices, Sambalpur Division ordered dismissal of the Petitioner from service. Appeal preferred by the Petitioner did not yield any fruitful result. Hence this application has been filed to quash the order of punishment.

2. In their counter, the Opposite Parties maintained that there being overwhelming evidence on the side of the prosecution and the principle of natural justice having been strictly complied, the order of punishment should not be unsettled - rather it should be sustained.

3. We have heard Mr. P.V. Ramdas, learned Counsel appearing for the Petitioner and Mr. A.K. Misra learned St. Counsel for the Central Government at some length.

4. Mr. Ramdas strenuously urged before us that the entire proceeding has been vitiated on account of the fact that before explanation was submitted by the Petitioner an enquiry officer was appointed by the disciplinary authority which clearly indicates nonapplication of mind and on that account the punishment should <sup>be</sup> ~~quashe~~ d. Mr. Ramdas also urged various other points assailing the impugned order of punishment. At this stage, we do not like to express any

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opinion on the aforesaid contention of Mr. Ramdas. because, <sup>and those submissions</sup> of the order we propose to pass in this case ~~which~~ are kept open to be taken up if <sup>any</sup> ~~such~~ occasion arises in future.

5. From the Annexure '4' i.e. the order of punishment, we find that the disciplinary authority while forwarding a copy of the punishment order to the Petitioner, a copy of the enquiry report has been enclosed thereto. This pre-supposes that copy of the enquiry report was not furnished to the Petitioner before the order of punishment was passed. In the case of Union of India Vs. Mohd. Ramzan Khan reported in AIR 1991 SC 771 My Lord, the Chief Justice of India Mr. R.N. Misra speaking for 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 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".

6. The Principles laid down by Their Lordships in the above mentioned judgment <sup>would</sup> ~~apply~~ in force to the facts of the present case. We would therefore, <sup>hold that</sup> ~~direct~~ and in the present case, there is a failure in regard to compliance of the principle of natural justice. Therefore, we do hereby quash the <sup>original</sup> order of punishment and the appellate order and remand the case to the disciplinary authority with a direction, as an abundant precautionary measure, <sup>that the disciplinary authority</sup> ~~the~~ Opposite Parties would

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cause service of a copy <sup>of the inquiry report</sup> on the petitioner within 15 days from the date of receipt of a copy of the judgment and within 15 days therefrom the Petitioner, if so advised, may file a representation attacking the findings of the Inquiry officer and in case the Petitioner demands a personal hearing, he should be personally heard. After closure of this process, within 30 days therefrom the disciplinary authority should pass necessary orders according to law.

7. Since we have ~~quashed~~ the order of punishment on a technical ground, the petitioner shall not be entitled <sup>to</sup> re-instatement or backwages. He shall continue <sup>to</sup> remain on suspension and ultimately the service benefits of the Petitioner including his financial emoluments ~~would~~ be decided by the disciplinary authority.

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

MEMBER (ADMINISTRATIVE)

VICE CHAIRMAN

Central Administrative Tribunal  
Cuttack Bench/K.Mohanty/28.4.92

