

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH,
C U T T A C K.

ORIGINAL APPLICATION NO: 345 OF 1990

Date of decision: August 12, 1993

Shri Golekha Chandra Pal ... Applicant

-Versus-

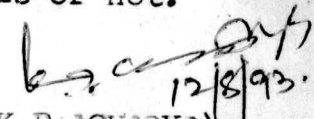
Union of India and others ... Respondents

(For Instructions)

1. Whether it be referred to the reporters or not? *ND*
2. Whether it be circulated to all the Benches of *ND*
the Central Administrative Tribunals or not?


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

12 AUG 93.


(K. P. ACHARYA)
VICE CHAIRMAN

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For the Applicant ... M/s S.Kr.Mohanty,
S.P.Mohanty,
Advocates.

For the Respondents ... Mr. A.K.Mishra,
Standing Counsel (Central)

CORAM:

THE HONOURABLE MR. K.P.ACHARYA, VICE-CHAIRMAN
A N D

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 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash Annexures 4 and 5 reducing the pay of the petitioner by two stages for two years resulting from a disciplinary proceeding.

2. Shortly stated the case of the petitioner is that while the petitioner was in charge of the post of Sub Postmaster, Bisra Road Post Office, Rourkela a disciplinary proceeding was initiated against him on an allegation that he had received

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an unregistered parcel from Shri Diliplal Ghosh (Wt. No.6) addressed to his father Dr. R.L.Ghosh. Further allegation is that Shri Diliplal Ghosh had affixed postal stamp of Rs.8/- on the back side of the parcel mentioning that it was an un-registered parcel. Allegation against the petitioner is that he had removed three postage stamps of Rs.2/- each and the petitioner scored out the words 'Parcel' and wrote in his own hand 'book packet'. A fulfilled enquiry was conducted and ultimately, the enquiry officer found that the charges have been established. The disciplinary authority concurred with the view expressed by the enquiring officer and ordered that the pay of Shri Pal Petitioner be reduced by two stages from Rs. 1125/- to Rs.1025/- for a period of two years without cumulative effect. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that the case involves ^{full} ~~fact~~-proof evidence bringing home the charge against the delinquent officer and principles of natural justice having been strictly complied, the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. S.P.Mohanty learned counsel appearing for the petitioner and Mr. Aswini Kumar Misra learned Standing Counsel (Central). The initial requirement to bring home the charge against the

delinquent officer is that the Parcel would have been delivered to the petitioner who is alleged to be the author of the crime in question. In this connection, it may be stated that according to the prosecution one Smt. Mary Lakra witness No. 2 for prosecution was a Stamp Vendor attached to the Sub Post Office. According to the prosecution, the witness No. 6 Shri Ghosh had purchased the requisite stamps from Smt. Lakra. On a perusal of the evidence of Smt. Lakra it would be clear that she had made a statement contradicting her previous statement at different stages. At one point of time, she stated that her previous statement implicating the petitioner was on the pressure given by the SDIP and at another point she stated that the statement made by her that she was pressurised by the SDIP to say that she had made statement exonerating the petitioner on the pressure given by the delinquent officer. Therefore, it cannot but be said that this witnesses had clearly given prevaricating statements according to her will and pleasure. Her veracity, credibility have been shattered and completely impeached. She has completely discredited herself. It will be dangerous and hazardous to depend on the evidence of such a witness. Even if the Bench feels inclined to disengage the grain from the chaff and rely on her evidence,

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there is absolutely no iota of evidence on record implicating the petitioner to have purchased the stamps from her rather Smt. Lakra in her cross-examination categorically states that she does not remember who had brought the Article to her and who had purchased the stamps. Next turning to the evidence of Shri D.K.Ghosh, witness No.6 who is said to have delivered the parcel one would find that he does not speak a word against the petitioner that he had delivered the parcel to the petitioner. In the absence of any evidence that the parcel was delivered to the petitioner by Shri D.L.Ghosh, cannot persuade us to come to a conclusion that there is any evidence implicating the petitioner to be the author of the crime in question. In these facts and circumstance of the case, we are of opinion that this is a case of no evidence and therefore, we would hold that prosecution has signally failed to bring home the charge against the petitioner who is exonerated from the charges and stands acquitted. Order of punishment is hereby quashed.

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

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MEMBER (ADMINISTRATIVE)

12 AUG 93

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K.Mohanty/
August, 4, 1993.

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VICE-CHAIRMAN

12.8.93.