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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No.409 of 1990

Date of Decision: 7. 7. 1992

Jaya Krushna Choudhury

Applicant

Versus

Union of India & Others

Respondents

For the applicant

M/s.P.V.Ramdas,
B.K.Panda &
D.N.Mohapatra,
Advocates

For the respondents

Mr.A.K.Mishra,
Standing Counsel
(Central Government)

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C O R A M

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

AND

THE HONOURABLE MR.M.Y.PRIOLKAR, MEMBER (ADMINISTRATIVE)

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

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(8)

JUDGMENT

MR. K. P. ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner challenges the order passed by the competent authority removing him from service contained in Annexure-A/6.

2. Shortly stated the case of the petitioner is that while he was functioning as Extra Departmental Branch Post Master of village Mursundi within the district of Sambalpur a set ^{of} up charges was ~~delivered~~ to the petitioner making certain allegations. A fullfledged enquiry was conducted and ultimately the petitioner has been removed from service which is sought to be ~~challenged~~. Appeal preferred by the petitioner did not yield any fruitful result. Hence this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintain that ^{of} the case being/fullfledged evidence and principles of natural justice have ~~been~~ strictly complied the case is devoid of merit and liable to be dismissed.

4. We have heard Mr. P. V. Ramdas, learned counsel for the petitioner and Mr. A. K. Mishra, learned Standing Counsel on the merits of the case.

5. Mr. P. V. Ramdas, learned counsel for the petitioner vehemently urged before us agitating that the evidence adduced in the case is unworthy of ^{credit} ~~court~~, unreliable and liable to be rejected. He further contended that principles of natural justice have been cleanly violated depriving the petitioner from a reasonable opportunity in defending himself. We do not feel inclined to express any opinion on the contentions advanced by Mr. P. V. Ramdas because of the order we propose

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to pass in this case.

6. From the order passed by the disciplinary authority contained in Annexure-A/6, it is found that copy of the enquiry report was sent along with the impugned order of removal from service to the petitioner. In the case of Union of India vs. Mohd. Ramzan Khan and others reported in AIR 1991 SC 471 Hon'ble Supreme Court has observed that copy of the enquiry report must be furnished by the disciplinary authority to the delinquent officer before an order of punishment is passed and if any claim made by the petitioner, he should be given a chance of personal hearing. In the present case the observations of the Hon'ble Supreme Court has not been observed and therefore in our opinion there is a violation of principles of natural justice. We would therefore set aside the order of removal and remand the case to the disciplinary authority with a direction that he should call upon the delinquent officer to file his statement attacking the findings of the enquiring officer and if he demands a personal hearing, that should be given to him and thereafter the disciplinary authority will be free to pass orders according to law. Hence the order of removal is hereby quashed along with the appellate order contained in annexure-7 with a direction that the disciplinary authority should complete the process indicated above within sixty days from the date of receipt of a copy of this judgment and in case adverse order is passed and ^{an} appeal is preferred then the same should be disposed of within thirty days

from the date of filing of appeal.

7. Contentions advanced by Mr. Ramdas on the merits of the case both on questions of fact and law are kept opened to be advanced in future if occasion arises.

8. The petitioner shall not be entitled to any back wages or reinstatement as we remand the case on a technical ground.

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

[Signature]
7/7/92
MEMBER (ADMINISTRATIVE)

[Signature]
7/7/92
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 7th July, 1992/BKSahoo