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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO: 410 OF 1990

Date of decision: 17. 5. 1994.

Narayan Chandra Mohanty ... Applicant
Versus
Union of India and others ... Respondents

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(FOR INSTRUCTIONS)

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

17.5.94
(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

17.5.94
(K. P. ACHARYA)
VICE CHAIRMAN

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Versus		
Union of India and others	...	Respondents
For the Applicant	...	M/s. P.V.Ramdas, B.K.Panda, D.N.Mohapatra, 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.)

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JUDGMENT

K.P.ACHARYA, V.C. In this application under section 19 of the Administrative Tribunals Act, 1985, the Petitioner prays to quash the order passed by the competent authority contained in Annexure-2 dated 16th July, 1990 directing recovery of Rs. 1,100/- from pay and allowances of Shri Narayana Chandra Mohanty, Petitioner, in twenty (20) equal monthly instalments.

2. Shortly stated the case of the petitioner is that while he was working as S.B. Counter Clerk in Bhadrak H.O., a set of charges were delivered to him and a departmental proceeding was initiated. The crux of the charges levelled against the petitioner is that he

he scrutinised the withdrawal statement etc. of different account holders then defalcation committed by the E.D.B.P.M.Garadpur Branch Post Office would have come to ~~the~~ light and a sum of Rs.7371.30 P could not have been less caused to the Government. A fulfledged enquiry was held and ultimately the enquiry officer found that the charges have been proved. The disciplinary authority i.e. the Supdt. of Post Offices concurred with the findings of the enquiry Officer and ordered recovery of Rs.1100/- from the pay of the petitioner. Appeal preferred by the Petitioner did not yield any fruitful result and therefore, this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that due to the carelessness on the part of the petitioner and lack of devotion to duty on the part of the petitioner, the Branch Postmaster, Garadapur Branch Post Office has ample opportunity of committing forgery and ultimately misappropriating money of different depositors which was in the custody of the Government.. Hence rightly a sum of Rs.1100/- was ordered to be realised from the petitioner and the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. P.V.Ramdas learned counsel for the Petitioner and Mr. Aswini Kumar Misra learned Senior Standing Counsel (Central). The foundation for arriving at a conclusion that the petitioner was negligent

in discharging his duties could be arrived at provided that there is any defalcation committed by the Branch Postmaster of Garadapur Branch Post Office. The Petitioner was the counter clerk in Bhadrak Head Post Office.

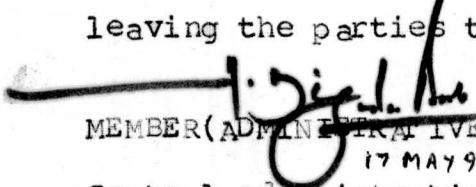
All papers relating to the transaction held in Garadapur Branch Post Office comes to the Head office longafter the transaction is completed. We fail to understand as to how there can be culpable negligence on the part of the present Petitioner. That apart the Branch Postmaster of Garadapur Branch Post Office was chargesheeted for having committed an offence under section 409 read with 467 IPC. This forms subject matter of G.R. Case No. 612 1979. Vide judgment dated 31st January, 1986 the learned Sub Divisional Judicial Magistrate, Bhadrak acquitted the E.D.B.P.M. Shri Umakanta Patnaik holding as follows:

"There is also no evidence on record to show that the accused has forged the signatures of different account holders of Garadpur Branch Post Office dishonestly and with a fraudulent intention. When the prosecution has failed to prove that the signatures of the witnesses which are marked by the handwriting expert as X-1 to X-78 are forged signature then it must be held that those are the signatures of the persons who are suppose to sign in different payment of withdrawal forms." (emphasis is ours)

After coming to this finding, the learned Magistrate found that there was no misappropriation committed by the E.D.B.P.M. of the said Post Office (accused in G.R. Case) and hence acquitted the said E.D.B.P.M. The disciplinary authority maintains his order that judgment in criminal case has no connection with the

disciplinary proceeding, initiated against the present Petitioner. In our opinion the view of the disciplinary authority is absolutely wrong. The view of the disciplinary authority was also concurred by the Appellate authority. Findings of the learned Magistrate is certainly relevant to the present case because if the signatures found in the withdrawal forms appears to be genuine and not forged and on that account the E.D.B.P.M. has been held to be not guilty of such misappropriation, we fail to understand as to how and whether there was ^{any} negligence on the part of the present petitioner in not properly scrutinising the withdrawals and other charges as levelled against him. Therefore, we are of opinion that this is a case of absolutely no evidence and therefore, the order of punishment passed by the disciplinary authority and the order passed by the appellate authority are hereby quashed and the petitioner is exonerated from the charges.

5. Thus, the Original application stands allowed leaving the parties to bear their own costs.


MEMBER (ADMINISTRATIVE)

17 MAY 94

Central Administrative Tribunal,
Cuttack Bench/K. Mohanty. 17.5.94


VICE-CHAIRMAN

17.5.94