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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No.421 of 1990

Date of Decision:24.8.1993

Uttam Charan Jena

Applicant (s)

VERSUS

Union of India & Others Respondent (s)

(FOR INSTRUCTIONS)

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


MEMBER (ADMINISTRATIVE)
03 SEP 93


VICE-CHAIRMAN
3/9/93

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(12)

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Union of India & Others

Respondents

For the applicant

Mr.D.P.Dhalasamant
Advocate

For the respondents

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

C O R A M:

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

AND

THE HONOURABLE MR.H.RAJENDRA PRASAD, MEMBER (ADMN)

(13)

JUDGMENT

MR. K. P. ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash the order of punishment passed against the petitioner by O.P.No.4, i.e. Superintendent of Post Offices, Cuttack North Division, ordering removal of the petitioner from service.

2. Shortly stated the case of the petitioner is that while he was functioning as Extra Departmental Branch Post Master, Orikanta Branch Office, certain allegations were levelled against him and the enquiry officer submitted his findings stating that two charges have been proved and in relation to the third charge, it was partially proved. The disciplinary authority disagreed with the views of the enquiry officer and came to a finding that all the charges have been proved and accordingly, he passed the order of punishment removing the petitioner from service.

3. In their counter the opposite parties maintain that the case being full proof evidence, the order of punishment should not be set aside - rather it should be sustained. The case being devoid of merit is liable to be dismissed.

4. Though Mr. D. P. Dhalasamant, learned counsel for the petitioner strenuously urged before us certain points assailing the order of conviction, yet we do not like to express any opinion at this stage because of the order we propose to pass.

5. From the order passed by the disciplinary authority contained in Annexure-6, we find that the copy of the enquiry report was sent for the first time to the delinquent officer.

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Therefore, we presume that before the disciplinary authority passed the impugned order of removal, especially, his disagreement with the enquiry officer regarding the fact that two charges had not been established, the enquiry report was not furnished to the delinquent officer and the delinquent officer was not personally heard. My Lord the Chief Justice of India Hon'ble Mr.R.N.Mishra speaking for the Court in the case of Ramzan Khan vs. Union of India and others reported in AIR 1991 SC 471 has been 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."

Therefore, we would remand this case to the disciplinary authority with a direction that the petitioner should be called upon to file his show cause and he should be personally heard, if he demands for a personal hearing, and thereafter the disciplinary authority may pass orders according to law. We express no opinion on the contentions advanced by Mr.D.P.Dhalasamant, learned counsel for the petitioner. Thus the application is accordingly disposed of.

No costs.

MEMBER (ADMINISTRATIVE)

03 SEP 93

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 24.8.1993/B.K.Sahoo

VICE-CHAIRMAN

24.8.93