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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK.

Original Application No. 447 of 1990.

Date of decision: July 9, 1992.

Baishnaba Charan Nanda ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s. D.R. Pattnayak,
S. Pattnayak,
C.R. Kar, Advocates.

For the respondents ... Mr. A.K. Misra,
Sr. Standing Counsel (CAT)

C O R A M:

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

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

...

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? ND No
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

(6)

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A N D

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

...

JUDGMENT

M.Y.PRIOLKAR, MEMBER (A), In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash the punishment awarded against the applicant removing him from service resulting from a disciplinary proceeding.

2. Shortly stated, the case of the applicant is that while he was continuing as Extra-Departmental Branch Post Master, Sarakantara Branch Post Office within Bhubaneswar a set of charges were delivered to the applicant alleging that he had affixed stamps to the tune of Rs.5.60 paise which had already been used in a letter addressed by him to his son-in-law. The second charge was that he had allowed his minor grand-daughter to function as Extra-Departmental Branch Post Master of the said Branch Post Office in his absence. The second charge was held to be not proved

whereas it was held both by the Enquiring Officer and the Disciplinary authority that the first charge had been established as a result of which the order of removal has been passed which is under challenge.

3. In their counter, the respondents maintained that the charge has been established ~~on~~ overwhelming evidence and principles of natural justice having been strictly complied the punishment should not be set aside - rather it should be sustained.

4. We have heard Mr. S. Pattanayak, learned counsel for the applicant and Mr. Aswini Kumar Misra, learned Senior Standing Counsel (CAT) for the respondents on the merits of the case.

5. We have gone through the enquiry report and the order of the disciplinary authority. We have no doubt in our mind that there is some evidence regarding the charge no.1. The fact that the applicant was the author of the crime in question has not been made out with unimpeachable evidence. Regarding the authorship of the applicant in respect of the crime in question reliance has been placed by the Enquiring Officer in regard to the fact that the applicant has deposited Rs. 5.60 paise. There are plethora of judicial pronouncements that in an allegation of misappropriation against a particular person, no adverse inference could be drawn against him by the mere fact that the alleged accused has deposited the amount. There may be various reasons for making such deposits. Therefore, judicial pronouncements go to the extent that from this act of the delinquent officer

or the accused, inference should not be drawn regarding the guilt of the accused which should be otherwise proved by the unimpeachable evidence. Here, in the present case, there is a suspicion against the applicant that he was guilty of the offence. In the case of Union of India vrs. H.C. Goel reported in AIR 1964 SC 364 Their Lordships have been pleased to hold that though strict standard of proof required in a criminal trial do not apply to a departmental proceeding yet suspicion however strong it may be, cannot take the place of proof applies in full force to a domestic enquiry. After hearing counsel for both sides and after perusing the relevant documents we are of opinion that at best grave suspicion may arise against the applicant about the authorship of the crime in question. Therefore, following the principles laid down by Their Lordships in the case of Union of India vrs. H-C. Goel we would award the benefit of doubt in favour of the applicant. Therefore, we would quash the order of punishment and exonerate the applicant from the charges. Though the applicant would be reinstated in service, he would not be entitled to any back wages.

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

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VICE-CHAIRMAN

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MEMBER (ADMINISTRATIVE)

Central Administrative Tribunal,
Cuttack Bench, Cuttack,
July 9, 1992/Sarangi.

