

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 55 of 1990

Date of Decision: 3.11.1990

S.K.Sultan

Applicant

Versus

Union of India & Others

Respondents

For the applicant

M/s.Ganeswar Rath
P.K.Mohapatra,
Advocates

For the respondents

Mr.D.N.Mishra
Standing Counsel
(Rly.Administration)

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C O R A M:

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

AND

THE HONOURABLE MR.K.J.RAMAN, MEMBER (ADMINISTRATIVE)

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

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JUDGMENT

MR. K. P. ACHARYA, VICE-CHAIRMAN, In this application the petitioner challenges the order passed by the competent authority reverting him to the post of a Caretaker which resulted from a disciplinary proceeding.

2. Shortly stated the case of the petitioner is that while he was employed as an ambulance driver, he was placed under suspension with effect from 18.4.1992 on a contemplated proceeding. Subsequently a set up of charges were delivered indicating that the petitioner had disobeyed the orders of his higher authority in handing over the key of the ambulance to another driver and so also the petitioner was charged for negligently and rashly driving the vehicle which had met an accident on some occasions. An enquiry was conducted and the inquiry officer found the petitioner guilty. In his turn the disciplinary authority concurred with the findings of the inquiry officer and ultimately passed an order reverting the petitioner to the post of caretaker. This order is under challenge.

3. In their counter the opposite parties maintain that there is overwhelming evidence to substantiate the charges which has been established and principles of natural justice having been complied in its strictest terms, order of punishment should be sustained and the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. P. K. Mohapatra, learned counsel for the petitioner and Mr. D. N. Mishra, learned Standing Counsel for the Railway Administration on the merits

of the case.

5. It was contended by Mr.P.K.Mohapatra that the initiation of the proceeding is by an incompetent authority namely the Divisional Medical Officer and therefore the entire proceeding should be quashed. This aspect of the contention does not find place in the pleadings. This fact not having found place in the petition, and no notice having been given to the opposite parties which would have given an opportunity to meet the case of the petitioner, we ^{do not} find any justifiable reason to act on ~~this~~ submission of Mr.Mohapatra.

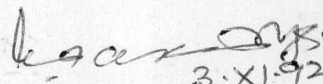
6. It was next contended that the petitioner being a direct recruit as an ambulance driver, reversion of the petitioner to a lower post is not according to law. On the other hand Mr.D.N.Mishra, learned Standing Counsel on the basis of the averments finding place in the counter submitted that the petitioner was initially recruited as a Mali and thereafter the petitioner was promoted to the post of Ambulance driver. Contention of the petitioner that he was a direct recruit is not correct. We had called upon Mr.Mohapatra to furnish the document under which the petitioner was directly appointed to the post of Ambulance driver. This ^{was} neither being filed along with the application, nor it could be filed before us to-day. Therefore, we reject this part of argument of the petitioner's counsel.

7. We have gone through the reasons assigned by the disciplinary authority in coming to a conclusion of guilt on the part of the petitioner. We do not find the impugned

order to be ~~perverse~~ in any manner whatsoever. Therefore,
the order of punishment is hereby upheld and the case being
devoid of merit is dismissed. No costs.



MEMBER (ADMINISTRATIVE)



VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 3.11.1992/ B.K. Sahoo

