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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 489 OF 1990

Date of decision: 24th September, 1991

Natabar Rout : Applicant

Versus

Union of India and others : Respondents

For the applicant : M/s. Devanand Misra,
Deepak Misra,
R.N.Naik, A.Deo,
B.S.Tripathy,
P.Panda, Advocates.

For the Respondents : Mr. A.K.Misra, Standing
Counsel (CAT)

CORAM:

THE HON'BLE MR. K.P.ACHARYA, VICE CHAIRMAN

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THE HON'BLE MR. I.P.GUPTA, 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? No
3. Whether His Lordships wish to see the fair copy of the judgment? Yes.

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JUDGMENT

K.P. ACHARYA, VICE CHAIRMAN: In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash the disciplinary proceeding and the charges framed against the Petitioner.

2. Shortly stated, the case of the petitioner is that while he was functioning as Extra Departmental Delivery Agent in Manjuri Branch Office in account with Akhuapada Sub Office under the Bhadrak Sub Division he was proceeded against in a disciplinary proceeding on an allegation of misconduct/misbehaviour etc. The Petitioner was found to be guilty and hence a penalty was imposed which was carried in appeal to the appropriate authority and vide Memo No. ST. 48-7/88 dated 16th August, 1988, the Additional Post Master General, Orissa, Bhubaneswar quashed the order of punishment on the ground that since the Superintendent of Post Offices, Bhadrak Division was the appellate Authority in respect of the delinquent office the punishment order issued by him was held to be illegal and in contravention of the instructions issued by the Directorate. The Additional Post Master General remitted back the case for de novo enquiry with a direction that the Superintendent

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of Post Offices, Bhadrak Division will take appropriate action for appointment of disciplinary authority who should be senior to the appointing authority and dispose of the same according to law.

3. Further the case of the Petitioner is that the Superintendent of Post Offices did not comply with this order passed by the Additional Post Master General, and the self same authority held the de novo proceeding and ultimately imposed penalty of removal over the petitioner. Incidentally, it may be mentioned that the imposition of penalty has been passed by an authority vide order dated 31st December, 1990 in contravention of the order passed by the Additional Post Master General and such order of removal has been passed on 31.12.1990. This application was filed on 14th December, 1990. Mr. R.N. Naik learned Counsel for the Petitioner wanted an adjournment to amend the original application and sought leave of the court to file the order imposing penalty over the Petitioner. In the peculiar facts and circumstances, of the case we do not think it just and proper to adjourn the case for the purpose of amending the original application.

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We permitted the Petitioner to file the order of removal from service and we are proceeding to disposal of the matter after hearing the counsel for both sides.

4. We have heard Mr. R.N. Naik, learned Counsel for the Petitioner and Mr. A.K. Misra learned Standing Counsel (Central) for the Opposite Parties at some length.

5. At the cost of the repetition we may say that the Additional Post Master General passed an order saying that the Superintendent of Post Offices, Bhadrak Division to take appropriate action for appointment of disciplinary authority senior to the appointing authority. This was not complied. The self same authority who had previously imposed the penalty took up the de novo proceeding and has passed orders. In their counter the Opposite Parties maintain that since the Disciplinary Authority who had already taken part in the Departmental investigation, in such circumstances, the higher authority acted as a disciplinary authority. But after the case was remitted back, such authority having been transferred, the new Disciplinary authority took up the matter and therefore, no illegality

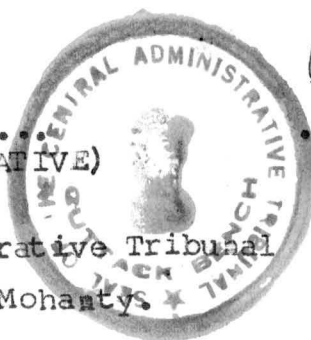
has been committed. However, after hearing counsel for both sides we are of the opinion, that the direction given by the Additional Post Master General should have been carried out.

Therefore, the penalty imposed over the Petitioner Shri Natabar Rout is hereby quashed and the case is sent back to the Superintendent of Post Offices to act according to the direction given by the Additional Post Master General in his Memo No. ST.48-7/88 dated 16th August, 1988 and further more he should immediately arrange for commencement of the proceeding and the matter should be finalised within ninety days from the date of receipt of a copy of this judgment provided the delinquent co-operates. Detail ordersheet should be maintained. Though we have quashed the imposition of penalty, the petitioner is not entitled to back wages because we have remitted the case for holding de novo enquiry.

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

J. P. Laha
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MEMBER (ADMINISTRATIVE)

Central Administrative Tribunal
Cuttack Bench: K. Mohanty



K. Mohanty
24.9.91
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VICE CHAIRMAN