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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO: 90 OF 1990

Date of decision: April 29, 1992.

Budhu Bhoi

.. Petitioner

-Versus-

Union of India and others

.. Opp. Parties.

For the Petitioner

: M/s S.C. Ghose,
S.K.Das,

For the Opp. Parties

: Mr.A.K.Misra, Sr. St.
Counsel (Central)

CORAM:

THE HONOURABLE MR. K.P. ACHARAYA, VICE CHAIRMAN

A N D

THE HONOURABLE MR. C.S. PANDEY, MEMBER (ADMINISTRATIVE)

1. Whether reporters of local papers may be allowed to see the judgment? Yes.

2. To be referred to the reporters or not?

3. Whether Their Lordships wish to see the fair copy of the judgment? Yes.

JUDGMENT

K.P.ACHARAYA, V.C. In this application under section 19 of the Administrative Tribunals Act, 1985, the punishment imposed on the Petitioner by the Senior Superintendent of Post Offices removing the Petitioner from service vide Annexure '3' dated 22nd October, 1986 is under challenge .

2. Shortly stated the case of the Petitioner is that he was appointed as Extra Departmental Packer on 16th September 1986 and while continuing as such a set ~~up~~ charges was delivered to the Petitioner alleging that he had committed mis-appropriation of sum amount under certain money orders - the amount being Rs. 420/-. A fullfledged enquiry was held and ultimately the disciplinary authority imposed a punishment of removal ~~of~~ ^{and the appeal preferred} ~~on~~ the Petitioner from service ~~which~~ did not yield any fruitful result. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that there being overwhelming evidence on the side of the prosecution and the principles of natural justice having been strictly complied, the order of punishment should not be unsettled - rather it should be sustained.

4. We have heard Mr. S.C.Ghosh learned Counsel appearing for the Petitioner and Mr. Aswini Kumar Misra learned Standing Counsel for the Central Government at some length. We do not like to express any opinion on the merits of this case about which we have been addressed by the learned Counsel for the Petitioner i.e. on the question of fact, because of the order we propose to pass in this case. From the impugned order

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contained in Annexure '3', we find that the disciplinary authority has forwarded a copy of the enquiry report to the petitioner alongwith the order of punishment. Hence it can be safely presumed that copy of the enquiry report was not delivered to the petitioner before the impugned order of punishment was passed. In the case of Union of India and others Vs. Mohd. Kamzan Khan reported in AIR 1991 SC 471 My Lord the Chief Justice of India Mr. R.N. Mishra speaking for the Court at paragraph 18 of the judgment was pleased to observe as follows:

" We make it clear the 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 nonfurnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge hereafter".

5. The principles laid down by Their Lordships in the above mentioned case would apply in force to the facts of the present case and therefore, we hold that there has been a failure in compliance of the principle of natural justice. Therefore, we do hereby quash the order of punishment and remand the case to the disciplinary authority with a direction as an abundant precautionary measure, the Opposite ^{no. 3} _{Parties} ^{of the Enquiry report} would cause service of a copy _{by} ^{on} the Petitioner within 15 days from the date of receipt of a copy of the judgment and within 15 days therefrom the petitioner, if

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so advised, may file a representation attacking the findings of the enquiry officer and in case the petitioner demands a personal hearing, he should be personally heard. After closure of this process within 30 days therefrom the disciplinary authority should pass necessary orders according to law.

6. Since we had quashed the order of punishment on a technical ground, the Petitioner shall not be entitled to reinstatement or backwages. He will continue on suspension.

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

G.Banerjee
MEMBER (ADMINISTRATIVE)

K.Mohanty
29/4/92
VICE CHAIRMAN

Central Administrative Tribunal
Cuttack Bench/K.Mohanty/28.4.92

