

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 243 of 1991

Cuttack this the 16th day of November, 1995

Banshidhar Ojha

...     ...

Applicant

Vrs.

Union of India & Others

...     ...

Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? ✓
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not? ✓

*Narayan Sahay*  
( N. SAHU )  
MEMBER (ADMN.)

*D.P. Hiremath*  
( D.P. HIREMATH )  
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 243 of 1991

Cuttack this the 16th day of November, 1995.

CORAM:

THE HONOURABLE MR. JUSTICE D.P. HIREMATH, VICE CHAIRMAN  
AND

THE HONOURABLE MR. N. SAHU, MEMBER(ADMINISTRATIVE )

....

Shri Banshidhar Ojha,  
aged about 46 years,  
Son of late Gourihari Ojha,  
Village & P.O. Bodakapatna,  
Via Randiahat,  
District Balasore

.....

APPLICANT

By the Advocate .... M/s. P.V. Ramdas,  
B.K. Panda,  
D.N. Mohapatra,  
Advocates.

Versus

1) Union of India represented by the  
Chief Postmaster General,  
Orissa Circle, Bhubaneswar-1.

2. Director, Postal Services,  
Sambalpur Region, Sambalpur-1.

3. Superintendent of Post Offices,  
Bhadrak Division, Bhadrak. ....

RESPONDENTS

By the Advocate .... Mr. Aswini Kumar Mishra,  
Senior Panel Counsel (Central).

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O R D E R

MR. D.P. HIREMATH, VICE CHAIRMAN: The simple point urged before us is

*✓* that the Inquiring Officer could not have ignored the order of the disciplinary authority and proceeded to frame fresh charges as per Annexure-2 as if the earlier charges were wiped out in view of the de novo trial order.

The Appellate Authority in its order dated 31.8.1987 found that the Inquiring Authority had not considered the necessity of sending certain hand-writings to the hand-writing expert for his opinion before finding that signatures on the questioned documents were forged.

2. With regard to absence without obtaining leave on two days, he had made a separate observations. He directed as follows:

"In the event of the facts observed by me in this case, I, Mrs. J.K.Neelam, do hereby order fo the DENOVO trial of the case from the stage of examining the questioned documents as above and do hereby remit it for further disposal as per rules".

3. Our attention has been drawn to Rule 126 of P & T Manual, Vol-III with regard to the effect of de novo proceedings. It states that when on appeal, the appellate authority sets aside the punishment orders and remits the case for de novo trial, the original proceedings containing the charge-sheet are to be deemed as quashed unless the stage from which the retrial should be conducted is specified in the order. As stated above, when the order of appellate authority clearly stated from which stage the inquiry should proceed, the disciplinary authority could not have proceeded to frame fresh charges as per Annexure-2. We hereby quash the impugned order framing fresh charges and direct that the disciplinary authority shall abide by the order made by the appellate authority on 31.8.87 and complete the inquiry within 120 days from the date of receipt

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of  
/ a copy of this order positively.

4. With these directions, the original application  
is disposed of. No costs.

*Narayan Sahay*  
(N. SAHU)  
Member (Administrative)

*D.P. Hiremath*  
(D.P. HIREMATH)  
VICE-CHAIRMAN

KN Mohanty.