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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.260 of 1991

Date of decision : December 13 ,1993.

Akula Rout ... Applicant.

Versus

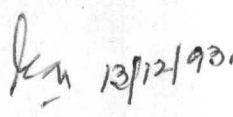
Union of India and others ... Respondents.

(FOR INSTRUCTIONS)

1. Whether it be referred to the Reporters or not ? No
2. Whether it be circulated to all the Benches of the No. Central Administrative Tribunals or not ?


(.H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

13 DEC 93


(K.P. ACHARYA)
VICE-CHAIRMAN

(6)

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Respondents.

For the applicant ...

M/s. P.V. Ramdas,
B.K. Panda,
M.B.K. Rao, Advocates.

For the respondents ...

Mr. Aswini Kumar Misra,
Sr. Standing Counsel (CAT)

C O R A M:

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

A N D

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

J U D G M E N T

K.P. ACHARYA, V.C., In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash the order contained in Annexure-3 dated 29.10.1990 dismissing the applicant from service with immediate effect.

2. Shortly stated, the case of the applicant is that while he was functioning as Branch Post Master of Karabar Branch Post Office in the district of Puri, he was put off from duty by order dated 18.12.1986 on a contemplated proceeding. Since the applicant was languishing under suspension and no charge-sheet was

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filed against him till the year 1987, the applicant filed an application under section 19 of the Administrative Tribunals Act, 1985, praying to quash the order of suspension and to reinstate him. This formed subject matter of O.A.209 of 1987. By its judgment dated 14.8.1987 passed in O.A.209 of 1987, the Bench directed the respondents to initiate a disciplinary proceeding against the applicant, if there was a case to do so, within one month. Accordingly, a disciplinary proceeding was initiated against the applicant vide charge-sheet dated 7.9.1987 in which 9 articles of charges were framed against the applicant alleging misappropriation and other irregularities to have been committed by the applicant. A full-fledged enquiry was held and the Enquiring Officer found that the charges have been established against the applicant and accordingly he submitted his report to the disciplinary authority who in his turn confirmed the findings of the enquiring Officer and ordered dismissal of the applicant from service with immediate effect, which is under challenge, and sought to be quashed.

3. In their counter, the respondents maintained that there was overwhelming evidence on the side of the prosecution to bring home the charges against the applicant and principles of natural justice having been strictly complied with the order of punishment should not be quashed - rather it should be sustained.

4. We have heard Mr. P.V. Ramdas, learned counsel for the applicant and Mr. Aswini Kumar Misra, learned Sr. Standing

Counsel(CAT) for the respondents.

5. We have gone through the enquiry report and the reasons assigned by the disciplinary authority in coming to its conclusion that the charges have been established. On a perusal of the enquiry report we have absolutely no iota of doubt in our mind to hold that there is sufficient evidence to bring home the charge against the applicant. In no case, we can come to a conclusion that this is a case of no evidence. Mr. Ramdas, relying upon a decision reported in AIR 1986 SC 995 (Sawai Singh vrs. State of Rajasthan) contended that the charges being grave in nature, the applicant was deprived of sufficient opportunity of meeting the vague charges and therefore, the principles of natural justice not being followed in conformity with the scheme of the Act, the applicant is entitled to exoneration from the charges. We have very carefully gone through the records of the case, and we have given our anxious consideration to the arguments advanced by Mr. Ramdas. It cannot be said that the charges are vague. On the contrary, we are of opinion that the charges framed against the applicant and the language employed therein are on very clear terms without any vagueness. Therefore, we are of opinion that the delinquent officer- the applicant is not entitled to seek protection under the principles laid down in the case of Sawai Singh (Supra).

6. It was next contended that keeping in view the gravity of the charges the quantum of punishment was

unduly excessive and adopting the doctrine of proportionality the quantum of punishment should be reduced. To support his contention Mr. Ramdas, relied upon a judgment reported in AIR 1992 SC 417 (Ex. Naik Sardar Singh vrs. Union of India and others). In this case the appellant before Their Lordships faced a summary court martial proceeding in which the appellant was sentenced to 3 months Rigorous imprisonment and dismissed from service on an allegation that he was carrying some bottles of rum beyond the permissible limit. The principles laid down in this judgment no doubt applies to criminal cases or quasi-criminal nature but this principle has no application to disciplinary proceeding entitling the Courts/Benches subordinate to the Hon'ble Supreme Court ^{to interfere} in view of the dictum laid down by Their Lordships in the case of Union of India vr. Paramanand, reported in AIR 1999 SC 1185. That case has not been considered by Their Lordships in the judgment of Sardar Singh. ~~SIXXX~~ The principles laid down in the case of Union of India vr. Paramanand not having been unsettled or modified in any manner whatsoever, we cannot but come to an irresistible conclusion that the Bench has no right to interfere with the quantum of penalty.

7. Hence, we find no merit in this application which stands dismissed leaving the parties to bear their own cost.



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MEMBER (ADMN.) 13 Dec 93

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VICE-CHAIRMAN

Central Admn. Tribunal,
Cuttack Bench, Cuttack.
December 13, 1993/Saranghi.