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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO : 515 of 1991

Date of decision : January 22, 1993.

Kulamani Das ... Applicant

Versus

Union of India and others ... Respondents

For the Applicant : M/s B.K.Behura, U.C.Behnra,  
Advocates.

For the Respondents : Mr. Aswini Kumar Misra, Sr. St.  
Counsel (Central).

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CORAM:

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

AND

THE HONOURABLE MR. S. R. ADIGE, MEMBER (ADMINISTRATIVE)

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

J U D G M E N T

S.R. ADIGE, MEMBER (A)

In this petition dated 2nd December, 1991 under section 19, Administrative Tribunals Act, 1985, the petitioner Shri Kulamani Das has prayed for quashing of the disciplinary authority's order dated 28.2.1990 (Annexure 1) and the Appellate Authority's order dated 22.8.1991 (Annexure 2) and his re-instatement in service with all consequent<sup>AM</sup> benefits.

2. Briefly stated, the applicant was appointed as a temporary clerk under the Superintendent of Post Offices, Puri on 19.3.1966 and was made permanent as Time Scale Clerk on 23.9.1971. He crossed the Efficiency Bar on 20.3.1974. On 14.10.1980, while working as Postal Assistant in the Office of the Superintendent of Postal Store Depot, Bhubaneswar, a departmental enquiry was drawn up against him for submitting false documents with his application while seeking employment. The applicant denied the charges upon which the Asst. Superintendent of Post Offices, R.M.S (Bag), Postal Stores, Bhubaneswar was ordered to enquire into the charges. On the basis of the enquiry officer's report, the petitioner was ordered to be removed from service. ~~The petitioner~~ The petitioner preferred an appeal before the Director, of Postal Services against the order of removal from service, which was rejected on 12.1.1983. There upon, the petitioner preferred O.J.C. 1001 of 1983 before the Hon'ble High Court of Orissa and upon constitution of Central Administrative Tribunal, Cuttack Bench, the O.J.C. was transferred and registered before the Tribunal. On 30.3.1987, the Tribunal set aside the

the appellate order and directed the appellate authority to dispose of the applicant's appeal afresh after giving the applicant a personal hearing. On 6.1.1988, the Addl. Post Master General, Orissa by a fresh appellate order held the report of the Enquiry Officer <sup>is</sup> inconclusive and remitted the case for 'de novo' enquiry. Meanwhile, by Original Application No.187 of 1988, the applicant prayed before the Tribunal for a direction for his reinstatement in consequence of the appellate order and the Tribunal by its order dated 7.9.1988 directed reinstatement of the applicant pending the 'de novo' enquiry and the applicant was accordingly re-instated. At the de novo enquiry, the department examined two more witnesses, but his findings remained inconclusive. as they were when the Additional Post Master General had remitted the matter for 'de novo' enquiry. The Senior Superintendent of Post Offices, Bhubaneswar, however, ordered removal of the petitioner from service with immediate effect and the applicant's appeal was rejected by the Director Postal services, Bhubaneswar on 22.8.1991. Against those two orders, this application has been filed with the aforesaid prayer.

3. In their counter affidavit, the Respondents have emphasised that the petitioner had submitted an application on 5.6.1965 for the post of Clerk along with a copy of the School Leaving Certificate purported to have been issued by Jagannath H.E. School, Sukinda stating that he had passed Annual High School Certificate Examination 1965 in second Division securing 464 marks <sup>is</sup> and <sup>is</sup> in his application he had furnished a declaration

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stating that the information furnished by him was correct, and on the basis of the information furnished by Shri Das accompanied by true copy of the aforesaid marklist attested by the Tahasildar Sukinda, Jajpur Road he was selected as a Postal Clerk of Puri Division with effect from 19.3.1966. However, subsequently <sup>Verification</sup> showed that Shri Das had passed annual High School Certificate Examination in 1965 from the Capital High School, Unit III Bhubaneswar in third Division securing only 306 marks. Thus, Shri Das had furnished false declaration and false marksheet to secure his appointment. After going through all the relevant records of the disciplinary case, the director of Postal Services, (Respondent No.3) had passed <sup>an</sup> a judicious and well reasoned order in rejecting the petitioner's appeal and upheld the disciplinary authority's order and there was no merit in this petition, which was fit to be dismissed.

4. We have heard Mr. B.K. Behura learned counsel appearing for the petitioner and Mr. Aswini Kumar Misra, learned Senior Standing Counsel (Central) for the Respondents.

5. Mr. Behura learned counsel for the petitioner has argued vehemently that the petitioner had not signed the application form and the same was signed by his friend. He drew our attention to the fact that the Additional Post Master General Orissa by a fresh appellate order had held that the report of the enquiry officer was inconclusive as to whether the applicant had signed the application form for recruitment and the matter had been remitted for de novo enquiry from the stage of examination of the disputed signature. At the de novo enquiry the applicant

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had prayed for examination of Shri A.C.Panda, a retired D.S.P., C.B.I., in his defence but the prayer of the petitioner was rejected by the enquiry officer on the ground that the relevancy of his examination had not been established. It has also been urged that the applicant had applied for a copy of the reasons in support of the opinion of the Handwriting expert's opinion, which was not supplied to him and was therefore, prejudiced in the cross examination of the expert.

6. On the other hand, the learned counsel for the Respondents has argued that non supply of the reasons for the opinion, did not vitiate the enquiry as the Assistant G.E.Q.D. was himself available for examination during the enquiry and the applicant did cross examine <sup>and</sup> the Asst. G.E.Q.D. with the assistance of the DSP, CID CBI Orissa. The Punishment order was a speaking order, and it is <sup>and itself</sup> self explanatory one, which meets all the arguments advanced by the applicant and as such his pleas were not overlooked.

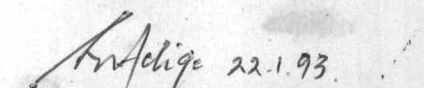
7. We have given our anxious consideration to the matter and <sup>have</sup> carefully perused all the materials on record. No malafide has been alleged against the enquiry officer of the disciplinary authority and the petitioner's claim that the certificate was forged and submitted with his application without the petitioner's own knowledge, cannot be accepted. The appellate Authority has correctly observed that "it has been proved in the enquiry and in fact admitted by the appellant himself that the SSLG certificate and the marksheet which he had

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submitted were forged and on the basis of these forged documents he secured the appointment in the Department". <sup>Leaving aside M1</sup> ~~then~~ ~~proceeding~~ for a moment the question whether the certificates were forged by the petitioner or somebody else, the fact remains that <sup>M1</sup> ~~the~~ forged documents were used with the knowledge of the Petitioner to secure his employment. The appellate authority has <sup>therefore M1</sup> correctly held that the petitioner is not a fit person to be kept in public service.

8. We find no good reason to interfere with the appellate Authority's order and under <sup>M1</sup> these circumstances, this petition is dismissed. Parties will bear their own costs.

  
22.1.93  
VICE CHAIRMAN

  
22.1.93  
MEMBER (ADMINISTRATIVE)

Central Administrative Tribunal,  
Cuttack Bench, Cuttack/22.1.1993  
K. Mohanty.

