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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.143 OF 1992

Cuttack, this the 19th day of September, 1997

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

AND

HON'BLE SHRI A.K.MISRA, MEMBER(JUDICIAL)

....

Bidyadhar Nayak,
Postal Assistant,
Angul H.O.,
District-Dhenkanal

....

Applicant.

Advocate for applicant - Mr.D.P.Dhalsamant.

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1. Union of India,
represented through
Chief Post Master General,
Orissa Circle,
Bhubaneswar-751001.
2. Director of Postal Services,
Samalpur Region,
Sambalpur-768 001.
3. Superintendent of Post Offices,
Dhenkanal Division,
Dhenkanal

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Respondents.

Advocate for respondents - Mr.A.K.Misra.

O R D E R

A.K.Misra, Member(Judicial)

The Applicant has filed this Application with the

prayer that the impugned order of punishment, Annexure-A-2 and
the order of the Appellate Authority confirming the punishment,
Annexure-A-4, be quashed.

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2. The Notice of this O.A. was given to the respondents who have filed their counter and have stated therein that the order of the Disciplinary Authority is based on sufficient material and evidence. The Appellate Authority has also considered the gravity of charges and has rightly held the applicant guilty of the charges. The O.A. deserves to be dismissed.

3. The facts as borne-out from the record are that the applicant while working as Sub Post Master, Hindol S.O., brought the dilapidated condition of the Building, where the Post Office was functioning, to the notice of Superintendent of Post Offices, Dhenkanal (respondent No.3) and went on reminding him about the dilapidated condition of the house by way of letters and telegrams. When the landlord undertook the repairs of that building, the applicant did not allow him to carry out repair works inside the building where the Post Office was running its business. Neither he took care to protect the record from being drenched from the rainy water which was percolating through the roof and the wall. The Building of the Post Office was inspected by the Junior Engineer No.1 and it was certified that building was not in the danger of immediate collapse. On these facts, the applicant was charged vide Charge Sheet dated 23.8.1988 (Annexure-A-1).

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4. The charges framed against the Applicant are

in brief as follows :

(i) That the delinquent addressed various letters to the Superintendent of Post Offices, Dhenkanal during the period from 2.6.1988 to 18.7.1988, informing him about the dilapidated condition of the building and used derogatory language therein and also sent telegrams without observing the departmental rules. Thus, he was charged for contravening the Rule 673 of the P & T Manual, Volume-II and violative of Rule 613 of the said Manual.

(ii) That when the House Owner completed the outside repair works and approached the applicant to undertake repairs inside the premises, the delinquent did not allow him to carry out repair works inside the premises and thus showed conduct unbecoming of an Officer.

(iii) That the delinquent in his capacity as Sub Post Master, did not take care of the record and did not protect the same from being drenched from rainy water. The Records in Almirah could have been placed to a safer place but the delinquent neglected the same and thus was charged for exhibiting lack of responsibility and violating the Rule 204 of the P & T Manual, Vol.III.

For all these charges, a detailed inquiry was conducted and he was punished as stated above.

5. The learned counsel for the applicant has urged that the charges against the applicant are not proved from

the evidence on record and, therefore, the orders deserve to be set aside. The learned counsel for respondents has refuted the claim.

6. We have considered the rival arguments. In our opinion, the applicant has not been able to point out any grave illegality or patent irregularity causing prejudice to the applicant in departmental proceedings. It is a well established position of law that the Tribunal will not sit as an Appellate Authority to examine the departmental proceedings and the conclusion of the Disciplinary Authority. The only thing which has to be seen is whether the conclusion of guilt of the delinquent in departmental proceedings is based on some evidence and documentary proof. In the instant case, various letters were written by the applicant which are written proof against him. He has continuously corresponded on one point without waiting for the follow up action. Writing letters to the authorities from time to time has not been denied by the applicant. On the contrary, it is said by him that in order to bring dilapidated and damaged condition of the building, he had to inform the authorities and looking to the urgency of the matter, he sent telegrams also. But in our opinion, the delinquent was not expected to write to the concerned authorities in a language which is said to be derogatory. The Building was inspected by the Junior Engineer No.1 and in spite of heavy rains, he did not

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find the building to be in a state of collapsing. There was no reason for the delinquent to continuously write on the subject to the authorities. Therefore, in our opinion, charge No.1 is based on sufficient material on record.

7. As regards Charge No.2, the Disciplinary Authority has observed that House Owner wanted to repair the building from inside but applicant obstructed him from doing so. It is alleged by the delinquent that he wanted that the House Owner may carry out the work of repairs in his presence which the House Owner did not do but this plea of the delinquent was not admitted by the Disciplinary Authority. We are also not prepared to accept that there is no material on record as regards this charge.

8. From the Inspection Report of Junior Engineer No.1 dated 14.7.1988, it is clear that when he inspected the Post Office on 12.7.1988 and 13.7.1988, he found that the delinquent did not allow the Landlord to carry on the repairs. The record was not shifted to a safer place and the record was getting drenched due to rainy water. It is also mentioned in the report that he with the help of other employees shifted the record to a safer place. There is no reason to disbelieve this report. Charge in this respect is fully proved. In our opinion, the Disciplinary Authority had come to a right conclusion in respect of guilt of the applicant on this charge too and there is no reason to interfere in that.

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9. It was argued by the learned counsel for applicant that the Appellate Authority did not apply its mind and decided the appeal in view ^{without keeping} ~~of~~ the Circular dated 1.10.1980 issued by the Department and mechanically dismissed the appeal without recording any finding relating to the proof of charges and punishment. Therefore, the Appellate Order deserves to be set aside.

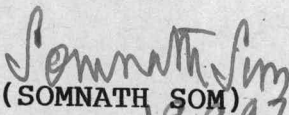
10. We have considered this point. In the Memo of Appeal (Annexure-3), the delinquent himself has admitted that looking to the delapidated condition of the building he addressed the letters and telegrams so that necessary action ^{admitted} could be taken. This being the position, the Appellate Authority was not required to discuss the evidence of the Department in detail in respect of this charge. By Inspection Note Annexure-R-1, which is also a part of the disciplinary proceedings, it was clearly brought on record that even at the time of inspection, the record was getting drenched in rainy water and the delinquent had not taken any steps to ^{protect} ~~safe~~ the record. Safe keeping of the record was done by the Junior Engineer No.1 with the help of some other persons, therefore, in this respect also, the Appellate Authority was not required to discuss in detail. In these circumstances, it cannot be said that the appeal was dismissed mechanically.

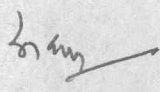
11. Likewise, the finding relating to Charge No.2, there was sufficient material on record and no detailed

discussion was required to be done. In his Memo of Appeal also, the applicant has not attacked the finding in this respect and when he himself has not said anything in his Memo of Appeal, the Appellate Authority was also not required to discuss in detail. For all these reasons, we do not find any substance in this argument.

12. From the foregoing discussion, we come to the conclusion that this is not a case in which the orders Annexures A-2 and A-4 may be interfered with. The O.A. deserves to be dismissed.

13. The O.A. is accordingly dismissed with no order as to costs.


(SOMNATH SOM)
19.9.97
VICE-CHAIRMAN


(A.K.MISRA)
MEMBER (JUDICIAL)

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