

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 186 OF 1998
Cuttack, this the 9th October, 2001

Paramananda Nanda

Applicant

Vrs.

Union of India and others ...

Respondents

FOR INSTRUCTIONS

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

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
9.10.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 186 OF 1992
Cuttack, this the 9th day of October, 2001

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)
...

Paramananda Nanda, Sub-Postmaster, Tikrapara NDTSO, Bolangir

..... Applicant

Vrs.

1. Union of India, represented through Secretary to Government, Department of Posts, Dak Bhawan, New Delhi-1.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Puri.
3. Postmaster General, Berhampur Region, Berhampur, Dist. Ganjam.
4. Superintendent of Post Offices, Bolangir Division, Bolangir

..... Respondents

Advocates for applicant - M/s B.M.Patnaik
R.N.Misra
B.Pujari

Advocate for respondents- Mr.Ashok.Mohanty
Sr.CGSC

.....
O R D E R

SOMNATH SOM, VICE-CHAIRMAN

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In this O.A. the petitioner has prayed for quashing the chargesheet dated 2.1.1992 at Annexure-1 and the order of punishment dated 26.3.1992 at Annexure-5.

2. The case of the applicant is that while he was working as S.D.I.(P), Balangir (East) Sub-Division, minor pealty proceedings were initiated against him in connection with his alleged supervisory lapses in respect of Bharsuja E.D.B.O. There were two articles of charge in the statement of imputation. The first charge was that he inspected Bharsuja Branch Office on 14.4.1987, 7.4.1988 and 7.4.1989, when one Radheshyam Mishra was the Branch Post Master. On 7.4.1988 he checked S.B.26 receipts from Receipt No.1, dated 8.6.1988 to No.34 dated 10.3.1989 and made the required endorsement of check on the backside of the receipt No.34 on 7.4.1989. But he failed to call for the required number of SB 26 receipts from such depositors who had not received the Pass Books. He failed to check the credits of all preliminary receipts issued from No.1 to 34 along with the relevant records. As a result of this, manipulation was made by the Branch Post Master which could not be detected by him. In receipt No.23 in the depositor's copy the amount was written as Rs.2000/-, but in the second copy the amount has been manipulated to Rs.200/- which was accounted for in the Post Office receipt. The applicant failed to check this. He was also required to verify the credits of all S.B.26 receipts issued after the date of last inspection along with the relevant records of the B.O.. Had it been done then the discrepancies could have been noticed and the fraud detected earlier. Similarly, in his inspection reports dated 7.4.1988 and 14.4.1987 he verified 10 pass books on each occasion, but failed to get the balances verified from the Head Office by forwarding the extracts. The second charge was that while he was working as SDI(P) he made recruitment for the post of EDMC, Bharsuja E.D.B.O. In the letter written to the

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Employment Exchange he had mentioned the minimum qualification as Class VIII and the desirable qualification as Matriculation. According to rules, he should have indicated in the notice to the Employment Exchange that the candidate should have sufficient working knowledge of the regional language and simple arithmetic, but he had failed to do so. He also did not enclose a specimen application form along with the notice to the Employment Exchange. On getting the statement of imputation, the applicant in his letter dated 8.1.1992 wanted that copies of 9 documents should be supplied to him. The disciplinary authority in his letter dated 1.2.1992 considered each of the nine documents and permitted him to peruse three documents and ordered that 5 documents are not relevant and in respect of one document he indicated that the same was not available with him. The applicant was directed to attend the office on a certain date to peruse the documents and submit his defence. Thereupon the applicant in his letter dated 9.3.1992 informed that as he is ill he is not in a position to attend the office to peruse the documents and to submit his defence statement. In the absence of the defence statement, the disciplinary authority considered the relevant records and held the applicant guilty of the two charges and ordered that a sum of Rs.5400/- should be recovered from the pay of the applicant in 36 equal instalments so far as the first charge is concerned. As regards the second charge he was imposed with the penalty of "Censure". In the context of the above fact, the applicant has come up with the above prayer on the grounds mentioned in the OA which will be referred to later in the order.

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3. Respondents have filed counter opposing the prayer of the applicant. No rejoinder has been filed. It is not necessary to refer to all the averments made by the respondents in their counter as these will be taken note of while considering the submissions made by the learned counsel of both sides.

4. We have heard the learned counsel for the parties and have perused the records.

5. Before proceeding further it has to be mentioned that in disciplinary proceedings the Tribunal does not act as an appellate authority and cannot substitute its findings in place of the findings arrived at by the inquiring officer and the disciplinary authority. The Tribunal can interfere only if reasonable opportunity has not been given and if there is violation of principles of natural justice and if the findings are based on no evidence or are patently perverse. The submissions made by the learned counsel for the petitioner have to be considered in the context of the above well settled position of law.

6. The applicant has prayed for quashing the chargesheet as the chargesheet has been issued on the ground of some alleged lapses on the part of the applicant. The applicant has also not made any averment in the O.A. why the chargesheet should be quashed. In view of this, we hold that no case is made out for quashing the chargesheet and this prayer is accordingly rejected.

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7. The first ground urged by the learned counsel for the petitioner in support of his second prayer is that the applicant was not supplied with the copies of documents asked for by him. From the perusal of the relevant correspondence enclosed by the applicant himself we find

that the applicant was permitted to peruse three documents in letter dated 1.2.1992. On 9.3.1992 the applicant in his letter at Annexure-4^{intimated} that because of his illness it is not possible for him to peruse the documents. The applicant has not mentioned if he was ill for the entire period after he received the letter at Annexure-3 till he sent his letter at Annexure-4. Rules are also clear that a delinquent official is entitled to peruse the documents and take copies. The departmental authorities are not obliged to supply copies of the documents to him. The disciplinary authority has considered each of the documents asked for by the applicant and while permitting him to peruse certain documents, has held that some other documents are not relevant. The applicant in his letter at Annexure-4 has not contested this. In view of this, he cannot make a grievance at this stage.

8. The second submission made by the learned counsel for the petitioner is that even before receipt of his explanation which he was not in a position to submit because of his illness, the disciplinary authority has considered the matter and imposed the punishment. We find that in letter dated 2.1.1992 the applicant was asked to submit his explanation within ten days. It is only on 9.3.1992, i.e., after two months, that the applicant wrote about his illness. In this letter he has also not indicated if he was on leave and for what period. In view of this, it was not incumbent on the part of the disciplinary authority to wait for his explanation before passing final orders. This contention is also, therefore, held to be without any merit.

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9. Coming to the merits of the matter we have already noted the first charge. The respondents have stated that the Sub-Divisional Inspector (Postal) is required to inspect the Branch Offices annually and the applicant has inspected Bharsuja B.O. on 14.4.1987, 7.4.1988 and 7.4.1989 as per the approved inspection programme. For inspection there are standard guidelines and questionnaire. In particular, for checking the opening of new Pass Books a specific type of checking has been prescribed. The respondents have enclosed at Annexure-R/1 the extract of the guidelines for inspection of Branch Office. From this it is seen that in paragraph 15 it has been provided that the inspecting officer should collect depositors' copies of two preliminary receipts and see whether the date and the amount of deposit on the original receipt and its copy tally with the figures mentioned in the copy. He is also required to check all preliminary receipts for savings certificates issued since the last inspection. The respondents have indicated in detail the method of checking the new opening of Pass Book. From this it appears that there is a prescribed receipt book SB 26 for opening of new Pass Book. This receipt book is in triplicate. The first copy is the original, duplicate is the second copy, and triplicate is the office copy. When a person wants to open a new Pass Book, the Branch Post Master will fill up the three copies and hand over the third copy to the depositor, the second copy along with the application for new Pass Book will be sent to Accounts Office, and the original will be kept as the office copy in the Branch Office. After the Accounts Office opens the Pass Book and sends it back to the Branch Post Master, he should hand over the Pass Book to the

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depositor after collecting the third copy which has to be kept along with the original. In the case of one Basanti Sahu, a Pass Book was sought to be opened by the depositor with the deposit of Rs.2000/-. The Branch Post Master manipulated the entry in the second copy and misappropriated Rs.1800/-. The applicant while checking up this receipt did not call for the original receipt which in any case should have been kept in the Branch Office and thereby the Branch Post Master manipulated the entry of Rs.2000/- to Rs.200/- in the second copy and misappropriated Rs.1800/-. From the above it is clear that the finding of the disciplinary authority that the first charge is proved against the applicant cannot be said to be based on no evidence or is patently perverse.

10. The second charge is that while placing requisition with the Employment Exchange for the post of EDMC, even though he mentioned that the candidate must be 8th Class pass, he did not mention that he should have working knowledge of regional language and simple arithmetic. In any case, a person who has passed Class VIII is expected to have working knowledge of regional language and simple arithmetic. But as under the rules he was required to mention this in the requisition to the Employment Exchange, it cannot be said that the disciplinary authority has committed any legal infirmity in holding this charge also as proved. In view of the above, we hold that the finding of the disciplinary authority with regard to the second charge cannot be said to be based on no evidence or is patently perverse.

11. Coming to the question of punishment, we find that in respect of finding on second charge punishment

of censure has been imposed and we find no illegality in this. As regards the punishment of recovery of Rs.5400/- from the pay of the applicant in 36 equal instalments, it is noted that the respondents have stated that because of his lapse in checking the work of Radheshyam Mishra, EDBPM, Bharsuja B.O., the latter committed misappropriation to the tune of Rs.2,87, 000/- and odd. It is not clear from the order of the disciplinary authority how he has arrived at this figure of Rs.5400/- which is stated to be a part of the loss sustained by the Department because of misappropriation by the EDBPM. The departmental instructions provide that when punishment of recovery of loss from the salary of a delinquent official is to be ordered, it would be necessary to determine as closely as possible the quantum of loss which is attributable to the lapses of the delinquent official and thereafter pass order of recovery. In the instant case, from the order of the disciplinary authority we find no reasonable nexus between the lapses proved against the applicant and the quantum of recovery ordered against him. In view of this, while upholding the findings of the disciplinary authority and the punishment of Censure imposed on the applicant, we quash the punishment of recovery and remand the matter to the disciplinary authority to reconsider the matter of punishment in the light of observations made above and the departmental instructions in this regard.

12. In the result, therefore, the Original Application is partly allowed. No costs.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

(SOMNATH SOM)

9.10.2001
VICE-CHAIRMAN