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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH.

Original Application No.270 of 1992.

Date of decision.... July 22,1993.

Jaladhar Pati

...

Applicant.

Versus

Union of India and others ...

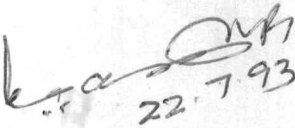
Respondents.

(FOR INSTRUCTIONS)

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


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

22 JUL 93


(K.P. ACHARYA)
VICE-CHAIRMAN.

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Respondents.

For the applicant ...

M/s. C. R. Mishra,
B. B. Patnaik, Advocates.

For the respondents ...

Mr. Ashok Misra,
Senior Standing Counsel
(Central)

CORAM:

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 passed by the competent authority directing compulsory retirement of the applicant from service resulting from a disciplinary proceeding.

2. Shortly stated, the case of the applicant is that while he was functioning as Sub-Postmaster of Ankula Post Office during the period beginning from 20.5.1982 to 30.11.1985 a set of charges were delivered to him containing the allegations of misconduct, namely the applicant is said to have issued fake receipts in the matter of transactions between certain

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investors of National Savings Certificates through commission agents which according to the prosecution case was not a fact. Furthermore, it is alleged against the applicant that he had shown sale of certain N.S.Cs. on a particular date which as a matter of fact was not sold and gained commission thereof. The main crux of all the charges is that ^{the petitioner,} in connivance with certain agents, or directly, has caused immense loss to the Government by fraudulent transactions. A full-fledged enquiry was held and the enquiring officer came to the conclusion that all the charges had been established and accordingly he submitted his findings to the disciplinary authority after endorsing a copy of the enquiry report to the present applicant. The disciplinary authority in his turn concurred with the findings of the Enquiring Officer and ordered dismissal of the applicant from service. The matter was carried in appeal and the Chief Post Master General while upholding the findings given by the Enquiring Officer and the disciplinary authority, modified the quantum of penalty to the extent that the applicant be compulsorily retired from service. This order is under challenge.

3. In their counter, the respondents maintained that the case involves a full-proof evidence and the principles of natural justice strictly being complied, the case is devoid of merit and the case is liable to be dismissed.

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4. We have heard Mr. Ashok Misra, learned Senior Standing Counsel and we have perused the relevant documents annexed to the petition and the counter. We have absolutely no doubt in our mind to hold that this is not a case in which we could come to ^athe conclusion that this is a case of no evidence but on the contrary we are of opinion that the charges have been fully established on the basis of examination of the prosecution witnesses. In the petition itself the applicant has alleged that 5 witnesses were not examined who have been cited in the charge-sheet. The delinquent officer cannot compel prosecution to examine certain witnesses. It completely lies within the discretion of the prosecution to examine such witnesses as it likes. Prosecution has no obligation to examine all the ^{mentioned} witnesses, ~~six~~ in the charge-sheet. Therefore, we find no merit in the aforesaid submission of learned counsel for the applicant. Another ground which has been taken by the learned counsel for the applicant is that the principles laid down in the case of Ramzan Khan, reported in AIR 1991 SC 469, have not been complied, because of the copy of the enquiry report has not been supplied. From Annexure-R/1 (enquiry report) we find that the enquiring officer has forwarded a copy of the enquiry report to the applicant and to the presenting officer and to the Director, Postal Services, while submitting the enquiry report to the disciplinary authority. Therefore, we find ^{no} illegality

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to have been committed against the delinquent officer. That apart, in a recent case, Supreme Court has decided that the observation in the case of Ramzan Khan is prospective and not retrospective. Therefore, we find no substantial force in this part of the case set out by the applicant. After perusal of the relevant documents and after hearing learned Senior Standing Counsel(Central) we are of opinion that the Chief Post Master General and the disciplinary authority were perfectly justified in arriving at ^athe conclusion ^athat the charges have been established. That apart, we would say that the Chief Post Master General has taken a lenient view in the matter of imposition of penalty.

5. We find no merit in this application which stands dismissed leaving the parties to bear their own costs.


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MEMBER (ADMIN) 22 Jul 93


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VICE-CHAIRMAN

Central Admn. Tribunal,
Cuttack Bench, Cuttack.
July 22, 1993/Saranghi.

