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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 453 of 1992

Date of Decision: 22.6.1994

Kishora Chandra Sahoo

Applicant(s)

Versus

Union of India & Others

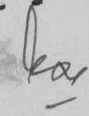
Respondent(s)

(FOR INSTRUCTIONS)

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


MEMBER (ADMINISTRATIVE)

22 JUN 94

 22.6.94
VICE-CHAIRMAN

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Respondents

For the applicant

M/s. S.Kr. Mohanty
S.P. Mohanty,
Advocates

For the respondents

Mr. Ashok Mishra,
Sr. Standing Counsel
(Central)

C O R A M:

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

AND

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

JUDGMENT

MR. K.P. ACHARYA, VICE-CHAIRMAN: Though this case came up for orders we did not like to keep this matter unnecessarily pending as the case is governed by several judgments which we have delivered in the past. Therefore, with the consent given by the counsel for both sides, we have heard this case on merits and disposed of accordingly.

2. In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash the annexures-4 and 5 and to direct the opposite parties to reinstate the petitioner from the date he was compulsorily retired from service with all consequential benefits.

3. Shortly stated the case of the petitioner is that

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while the petitioner, Shri Kishore Chandra Sahoo was working as an Assistant Treasurer in Keonjhar Head Post Office and was in custody of service postage stamps etc., it was found that the service postage stamps were deficit to the extent of Rs.2693/- and revenue stamp to the tune of Rs.1375/-. A proceeding was drawn up against the petitioner, and ultimately the enquiry officer found that the charges were not established, but the disciplinary authority came to a conclusion that ~~one~~ ^{one} of the charges was proved and ultimately he directed that the pay of the petitioner be reduced in the time scale of Rs.975-25-1150-EB-30-1616 for a period of three years with effect from 1.12.1991. The matter was carried in appeal. The appellate authority, i.e. the Director of Postal Services unsettled the quantum of penalty imposed by the disciplinary authority and directed that the petitioner should be compulsorily retired from service with immediate effect holding that all the charges had been established. This order of punishment is under challenge.

4. In their counter the opposite parties maintain that not only the petitioner was rightly convicted, but adequate punishment has been awarded to the petitioner by the appellate authority which should not be unsettled - rather it should be sustained.

5. We have heard Mr.S.P.Mohanty, learned counsel for the petitioner and Mr.Ashok Mishra, learned Senior Standing Counsel.

6. On perusing the relevant records, viz. the enquiry report, the reasons assigned by the disciplinary

we have absolutely no iota of doubt in our mind to hold that one of the charges has been established as stated by the disciplinary authority, but so far as enhancement of sentence is concerned, admittedly, no notice was given to the petitioner to show cause as to why the quantum of penalty should not be enhanced. This is an admitted position in view of the counter filed in Misc.application No.278/94. Law is well settled that before proposing to enhance the quantum of penalty notice must be given to the delinquent officer to show cause as to why quantum of penalty should not be enhanced. This is a view which we have already taken in several cases in the past and we have ^{no} justifiable reason _{to} to make a departure from the view already taken by us. Therefore, the order passed by the appellate authority enhancing quantum of punishment to the extent of compulsorily retirement of the petitioner from service is hereby quashed and the quantum of penalty imposed by the disciplinary authority is hereby maintained. The petitioner should be reinstated to service within 15 days from the date of receipt of a copy of the judgment and he is deemed to be continuing in service with effect from the date he was compulsorily retired from service. The petitioner is entitled to backwages which should be calculated and paid to him within 30 days from the date of receipt of a copy of the judgment. Thus the application is accordingly disposed of. No costs.


MEMBER (ADMINISTRATIVE) 22 JUN 94


VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench Cuttack

dated the 22.6.1994/ B.K.Sahoo