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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application No. 70 of 1992.

Date of Decision : August 25, 1993

Hrudananda Mallik ...

Applicant.

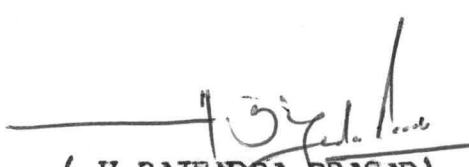
Versus

Union of India and others ...

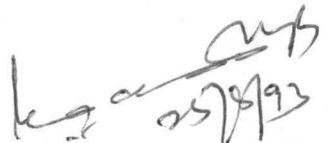
Respondents.

(FOR INSTRUCTIONS)

1. Whether it be referred to the Reporters or not ? *NA*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? *NA*


(H. RAJENDRA PRASAD)
MEMBER (ADMN.)

25 AUG 93


(K. P. ACHARYA)
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 70 of 1992.

Date of decision : August 25, 1993.

Hrudananda Mallik ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s. B.S. Misra,
N.K. Behera,
G. Misra, Advocates.

For the respondents ... Mr. Aswini Kr. Misra,
Sr. Standing Counsel (Central)

C O R A M:

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., The services of the applicant as Extra-Departmental Sub Post Master, Sarichuan Sub Post Office having been terminated under Rule 6 of the E.D. Agents (Conduct and Service) Rules, 1964, he has come up before this Bench with a prayer to quash the order of termination.

2. In their counter, the respondents maintained that since the applicant had given a fake and manufactured income certificate which was discovered later, his services have been terminated under Rule 6 of the E.D. Agents (Conduct and Service) Rules and no notice was required to be issued to the applicant to show cause as to why his services should be terminated.

3. We have heard Mr. B.S. Misra, learned counsel for the

applicant and Mr. Aswini Kumar Misra, learned Senior Standing Counsel (Central) for the respondents. Admittedly no notice has been issued before termination of services of the applicant. Hon'ble Mr. Justice R. N. Misra (as my Lord the Chief Justice then was) in the case of K. I. Shephard and others vrs. Union of India and others, reported in AIR 1988 SC 686, speaking for the Court was pleased to observe as follows:

" On the basis of these authorities it must be held that even when a State agency acts administratively, rules of natural justice would apply. As stated, natural justice generally requires that persons liable to be directly affected by proposed administrative acts, decisions or proceedings be given adequate notice of what is proposed so that they may be in a position (a) to make representations on their own behalf; (b) or to appear at a hearing or enquiry (if one is held); and (c) effectively to prepare their own case and to answer the case (if any) they have to meet. "

Later, His Lordship speaking for the Court quoted with approval the observations of Sarkaria, J. in the case of Swadeshi Cotton Mills v. Union of India reported in AIR 1981 SC 818 (at page 828) which runs thus:

" During the last two decades, the concept of natural justice has made great strides in the realm of administrative law. Before the epoch-making decision of the House of Lords in Ridge v. Baldwin (1964 AC 40), it was generally thought that the rules of natural justice apply only to judicial or quasi-judicial proceedings; and for the purpose, whenever a breach of the rule of natural justice was alleged, Courts in England used to ascertain whether the impugned action was taken by the statutory authority or tribunal in the exercise of its administrative or quasi-judicial power. In India also, this was the position before the decision of this Court in Dr. Binapani Dei's case. (AIR 1967 SC 1269) (supra); wherein it was held that even an administrative order or decision in matters involving civil consequences, has to be made

consistently with the rules of natural justice. This supposed distinction between quasi-judicial and administrative decisions, which was perceptibly mitigated in Binapani Dei's case (supra) was further rubbed out to a vanishing point in A.K.Kraipak's case, AIR 1970 SC 150(supra) "

Similar view has also been taken by various Benches of the Central Administrative Tribunal. Therefore, in the absence of issuance of notice to the applicant to show cause as to why his services should not be terminated is clear violation of the principles of natural justice. Therefore, we do hereby quash the order of termination and direct his reinstatement to service within 15(fifteen) days from the date of receipt of a copy of this judgment. The applicant would not be entitled to back wages. The Senior Superintendent of Post Offices, Sundargarh Division is at liberty to issue notice to the applicant to show cause as to why his services will not be terminated because of the allegations for which his services have already been terminated. After the applicant files his show cause the same may be considered by the Senior Superintendent of Post Offices and orders be passed according to law as deemed fit and proper.

4. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

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MEMBER (ADMN)

25/8/93

Central Admn. Tribunal,
Cuttack Bench, Cuttack.
August 25, 1993/Saranghi.

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VICE-CHAIRMAN.