

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH : CUTTACK.

Original Application No. 29 of 1993

Date of decision : August 12, 1993

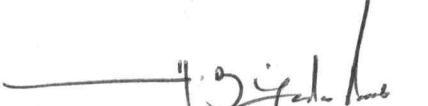
Sk. Mumtaz Ahmed ... Applicant

-Versus-

Union of India & others... Respondents

(For Instructions)

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


(H.RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

12 AUG 93


12.8.93
(K.P.ACHARYA)
VICE CHAIRMAN

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For the Applicant ... M/s. Devanand Misra,
Deepak Misra,
R.N.Naik, A.Deo,
B.S.Tripathy,
Advocates.

For the Respondents ... Mr. Uma Ballav Mohapatra,
Additional 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.)

JUDGMENT

K.P.ACHARYA, V.C.

In this application under section 19 of the
Administrative Tribunals Act, 1985, the petitioner prays
to quash the order passed by the competent authority
removing the petitioner from service.

2. Shortly stated the case of the petitioner is
that he had been given a compassionate appointment
to a Group 'D' post by the Chief Postmaster General
owing to the death of his father Sk. Mohammad Bux. The
Petitioner was posted as a Group 'D' employee in the
W.

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Cuttack G.P.O and served as such for sometime. It was alleged against the petitioner that he had submitted a false ~~transfer~~ Certificate said to have been issued by the Headmaster of Ambika Bidyapitha Uttaran Cuttack in support of his educational qualification. It was ultimately found that the certificate was a false certificate as it was reported by the Headmaster that the petitioner was never a student of that school. Hence a disciplinary proceeding was initiated against the petitioner and a fullfledged enquiry was conducted. The enquiry officer found that the charge had been established and accordingly submitted his report. The disciplinary authority concurred with the findings of the enquiry officer and vide order dated 30th January, 1993, found the petitioner to be guilty of the charges and ordered removal from service which is under challenge.

3. In their counter, the Opposite Parties maintained that the case involves full proof evidence, principles of natural justice having been strictly complied, the order under challenge should not be unsettled - rather it should be sustained.

4. We have heard Mr. Deepak Misra learned counsel appearing for the petitioner and Mr. Uma Ballav Mohapatra learned Additional Standing Counsel (Central). The first question on which the Bench is required to address itself as to whether we could come to an

irresistible conclusion that this is a case of no evidence.

5. We have carefully gone through the elaborate discussion made by the enquiry officer and the disciplinary authority. The Headmaster of Ambika Bidyapitha Uttaran Cuttack was examined as the witness for the prosecution. In his evidence the Headmaster had stated that he has been working as Headmaster in the said school since 24th January, 1973. He further stated in his evidence that the certificate in question was never issued by the Headmaster of the School. The seal finding place in the certificate does not belong to the school. To counter act this evidence, it was maintained by the delinquent officer that this mischief has been played by his step brother who had replaced the certificate originally produced by his mother. This defence taken by the petitioner is far fetched and does not inspire any confidence. Hence we do not feel inclined to accept this defence set up by the petitioner.

6. Compassionate appointments are given to certain category of persons to sustain their livelihood with the expectation that they would be leading a ^{life and} clean approach to all matters especially in due discharge of one's official duty. But here is a case where the petitioner had practised fraud over the departmental authorities.

7. In view of the discussions made above, we

cannot hold that this is a case of no evidence.

On the contrary, we have absolutely no iota of doubt, in our mind, to hold that this is a case of full proof evidence and therefore, the order of punishment is hereby confirmed.

8. Thus, we find no merit in this application, which stands dismissed. There would be no order as to costs.

T. S. Mohanty

MEMBER (ADMINISTRATIVE)

12 AUG 93.

B. C. Mohanty

12-8-93
VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty/
August , 1993.

