

1/2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

Original Application No.315 of 1993

Date of Decision: July 29, 1993

Shri Nirmal Kumar Das ... Applicants

-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 Admn. Tribunals or not? No

  
(H. RAJENDRA PRASAD)  
MEMBER (ADMINISTRATIVE)

29.7.93

  
(K.P. ACHARYA)  
VICE-CHAIRMAN

29/7/93

3

CENTRAL ADMINISTRATIVE TRIBUNAL  
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ORIGINAL APPLICATION NO: 315 OF 1993

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-Versus-

Union of India & Ors. ... Respondents

For the Applicant ... M/s. Devanand Misra,  
Deepak Misra,  
A. Deo,  
B.S. Tripathy,  
D.K. Sahoo,  
A. Misra,  
Advocates.

For the Respondents ... Mr. Ashok Misra,  
Senior Standing Counsel  
(Central).

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CORAM:-

THE HONOURABLE MR. K.P. ACHARYA, VICE-CHAIRMAN  
A N D

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

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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 cancellation of the order of appointment of the Petitioner Shri N.K. Das as Extra Departmental Branch Postmaster, B. Narayana pur Branch Post Office in account with Pratappur Sub-Office is under challenge.

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2. Petitioner was selected as Extra Departmental Branch Post Master of B.Narayanapur Branch Post Office and after appointment had worked for some time. Suddenly services of the petitioner was terminated under Rule-6. Hence this application has been filed with the aforesaid prayer.

3. We had directed Assistant Superintendent and the concerned S.D.I.P to assist this Court to apprise the reasons for which the services of the petitioner has been dispensed with.

4. We have heard Mr. B.S.Tripathy learned counsel for the petitioner and Mr. Ashok Misra learned Senior Standing Counsel (Central) receiving instructions from the Assistant Supdt. of Post Offices and the SDIP who are personally present in court. Officers informed us that the Chief postmaster General, Orissa Bhubaneswar reviewed the case of the petitioner and having found that the property statement given by the petitioner being a joint property in the name of his brothers and himself, the Chief Postmaster General ordered cancellation of the appointment of the petitioner under Rule-6.

5. Mr. Tripathy learned counsel for the petitioner submitted that this Bench should follow the precedent already created in several judgments that before terminating the services under Rule 6,

principles of natural justice should be complied by giving notice to the person who would be affected by the order and calling upon him to show cause. To substantiate his contention, Mr. B. S. Tripathy learned counsel appearing for the petitioner relied on a judgment of the Hon'ble Supreme Court reported in AIR 1988 SC 686 (K. I. Shephard and others Vs. Union of India and others). Hon'ble Mr. Justice Ranganath Mishra (As my Lord Chief Justice of India then was) speaking for the Court observed as follows:

"On the basis of these authorities it must be held that even when a State agency acts administratively, rules of 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".

Hon'ble Mr. Justice Ranganath Misra on behalf of the Court quoted with approval the observations of the Sarkaria J. in the case of Swedeshi Cotton Mills Vs. Union of India reported in AIR 1970 SC 2042

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) SC 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)....."

6. Incidentally we must take notice of another judgment of the Central Administrative Tribunal, Calcutta Bench relied upon by the learned counsel appearing for the petitioner Mr. B.S. Triathy reported in ATR 1987 (2) CAT 587 (Raipada Biswas Vs. Union of India and others). In the said case, the Hon'ble Judges held that compliance of principles of natural justice is mandatory before invoking the provisions contained in Rule 6 and principles of natural justice not having been complied, the petitioner before the Central Administrative Tribunal, Calcutta Bench was ordered to be reinstated.

7. In the present case, admittedly, the petitioner has not been given notice of the alleged illegality/

irregularity far less to speak of having been heard. <sup>without</sup> With any notice, abruptly and for no rhyme or reason, the competent authority had terminated the services of the petitioner which cannot but be illegal in view of the judge-made laws quoted above. Therefore, we do hereby quash the order terminating the services of the petitioner and we would direct his reinstatement within seven days from the date of receipt of a copy of the judgment.

8. The petitioner shall not be entitled to any back wages.

9. We give liberty to the appointing authority to further proceed in the matter, if he so desires, after complying with the principles of natural justice.

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

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MEMBER (ADMINISTRATIVE)

29 JUL 93

.....  
VICE-CHAIRMAN

Central Administrative Tribunal,  
Cuttack Bench, Cuttack/K. Mohanty/  
29.7.93.