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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 275 OF 1994
Cuttack this the 17th day of July/2000

Purna Chandra Jayal

...

Applicant (s)

-VERSUS-

Union of India & Others

...

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? 45-
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
17.7.2000

G. Narasimham
(G. NARASIMHAM)
MEMBER (JUDICIAL)
17-7-2000

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.275 OF 1994
Cuttack this the 1st day of July/2000

CORAM:

THE HON^{BLE} SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON^{BLE} SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

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Purna Chandra Jayal, at present working
as Sub Post Master, S.R.Jharsuguda
PO/P.S./District : Jharsuguda

...

Applicant

By the Advocates

Mr.D.P.Dhalasamant

-VERSUS-

1. Union of India represented by it's
Secretary in the Ministry of Communication
Department of Posts, Dak Bhawan, New Delhi
2. Chief Post Master General,
Orissa Circle, Bhubaneswar
Dist - Khurda
3. Director of Postal Services
Office of the Chief Post Master General
Orissa Circle, Bhubaneswar
Dist - Khurda
4. Senior Superintendent of Post Offices,
Sambalpur Division, Dist - Sambalpur

...

Respondents

By the Advocates

Mr.S.B.Jena,
Addl.Standing Counsel
(Central)

...

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O R D E R

MR. G. NARASIMHAM, MEMBER (JUDICIAL): Applicant, Purna Chandra Jayal in this Application filed on 6.5.1994 seeks to quash order dated 30.9.1993 (Annexure-2) of the disciplinary authority directing recovery of a sum of Rs.10,000/- from his pay and allowances in equal 25/monthly instalments at the rate of Rs.400/- per month commencing from the month of October, 1993. He preferred department appeal on 28.10.1983 under Annexure-3 and this was yet to be disposed of by the time this Application was filed.

2. In the counter filed by the Department it has been indicated that the appeal has since been disposed of on 30.6.1994. Since this Original Application was admitted on 9.5.1994, appeal which was by then pending before the appellate authority stood abated under Section 19(4) of the Administrative Tribunals Act.

3. Through Memo dated 5.12.1992 (Annexure-1) issued under Rule 16 of CCS(CCA) Rules 1965, the applicant was served with charges under two heads, viz., while working as Assistant Post Master (S.B.), Sambalpur Head Office on 10.4.1994, he did not like to know the particulars of references received by the SECC, Nagendranath Patnaik, who was working on that day under his supervision. Said Shri Patnaik on that day received Sambalpur Municipal Council letter dated 28.3.1991 with 52 NSCs addressed to the Postmaster, Sambalpur H.O. In the forwarding letter particulars of the certificates were sent with request for encashment and opening of New Passbook for Rs.1, 15, 434.65 in the name of Executive Officer, Municipal Council, Sambalpur. Shri Patnaik made over the letter of the Executive Officer, Municipal Council, Sambalpur direct to Shri P.K.Routray, N.S.C. Counter Assistant, who 5.7.1991 to 9.9.1991 (on four dates) misappropriated these amounts fraudulently encashing the same

and thus caused loss of the aforesaid amount of Rs.1, 15, 434.65 to the Department. The second charge is that applicant on 1.10.1991 though received letter dated 30.9.1991 from the Manager, Canara Bank, Sambalpur along with 8 nos. of NSC amounting to Rs.10,000/- addressed to the Postmaster, Sambalpur H.O. for encashment of the same and payment of maturity value by Cheque/ Demand Draft. the applicant instead of bringing this to the notice of the Assistant Postmaster (S.B.), Sambalpur H.O. about receipt of this letter made over the letter along with enclosures direct to Shri P.K.Routray, N.S.C. Counter Assistant, who fraudulently encashed these N.S.C.s and done away with the whole amount leaving the Department to sustain a loss of Rs.16, 120.00 Thus the applicant did not maintain devotion to duty and acted in a manner unbecoming of a Govt. servant violating provisions of Rule-3(1)(ii) of CCS(Conduct) Rules, 1964. Applicant denied the charges through his representation dated 1.1.1993. After considering his representation and other papers the disciplinary authority passed the impugned order dated 30.9.1993(Annexure-2).

3. In this application the applicant while denying his responsibility stated that he was not the supervising officer and in fact references were handed over direct to Shri Routray and therefore, he had no occasion to know about the reference and question of checking of references as such does not arise. In other words the finding of the disciplinary authority that the loss caused to the Department was on account of non supervision of the applicant is an error of law in the absence of any corroborative evidence to substantiate the same.

4. In the counter the Department justified their action in passing the impugned order.

5. On 9.5.1994 while admitting this application the

then Hon'ble Member (Administrative) of this Bench stayed the operation of the impugned order and this stay is still continuing.

¶. We have heard Shri D.P. Dhalasamant, learned counsel for the applicant and Shri S.B. Jena, learned Addl. Standing Counsel appearing for the Respondents (Department). Also perused the records.

§. There is no dispute that the Department suffered loss of those amounts referred above. Legal position is clear that a Court or Tribunal cannot assume the role of an appellate authority while judging the correctness or otherwise of the order of the disciplinary authority. All that is required by the Court/Tribunal is ^{to examine} whether principles of natural justice have been violated to the prejudice of the delinquent in the disciplinary proceedings or whether the finding is based on no evidence and/or perverse or arbitrary.

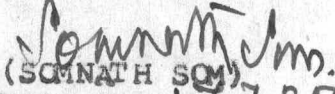
The impugned order under Annexure-2 consists of three typed sheets dealing with representation dated 28.10.1993 of the applicant and other materials. In the defence statement (copy not annexed by the applicant) as indicated in the impugned order, the applicant took the plea that 52 NSCs were made over by S.B.C.C. direct to Shri P.K. Routray, ^{NSC} Counter Asst. without his knowledge although the distribution of letters should be done through the Group Supervisor and he was not to supervise the work of S.B.C.C. In regard to 2nd charge his defence was that on 1.10.1991 he was in charge of S.B.C.C., the Postmaster directed him to hold the charge of A.P.M. and as such reference of Canara Bank though received and entered in the hand receipt book was kept under lock and as such question of intimating about the references of A.P.M., S.B. did not arise. The disciplinary authority held that being Group Supervisor the applicant was not only to monitor

the work of the Branches including the N.S.C. Counter, and also equally responsible and liable to explain for the omission and commission of the Branches and it was incumbent on his part to enquire about the disposal of references received from the Branches. The inaction of the applicant apparently prompted Shri Routray to encash N.S.Cs fraudulently and misappropriated the same in a phased manner. In regard to 2nd charge his finding is that the applicant being the person concerned in receiving letter with 8 Nos. of NSCs should have been careful to make over the same to the proper person, A.P.M.(SB).


It is thus clear that the disciplinary authority after considering the relevant papers found the applicant guilty of negligence of proper supervision and passed the impugned order of recovery. No procedural irregularity on the part of the disciplinary authority has been brought to our notice. It is not a case of holding the delinquent guilty in the absence of any material. Hence we cannot disturb this finding of the disciplinary authority by reappreciating the materials on record like an appellate authority.

9. In the result, we do not see any procedural informity in the impugned order passed by the disciplinary authority, needing interference. The Application is held to be without any merit and the same is therefore, dismissed, but without any order as to costs.

Interim order dated 9.5.1994 passed by this Tribunal staying the impugned order (Memo No.F1/4-2/91-92 (Disc.VII) dated 30.9.1993) stands vacated.


(SOMNATH SANYAL)
VICE-CHAIRMAN 2/00

B.K.SAHOO//

 17.7.2000
(G.NARASIMHAM)
MEMBER (JUDICIAL)