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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

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ORIGINAL APPLICATION NO. 361 OF 1994

Cuttack, this the 25th day of August, 1999

Shri Banamali Behera Applicant

Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
25.8.99
VICE-CHAIRMAN

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CUTTACK BENCH, CUTTACK.

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Cuttack, this the 25th day of August, 1999

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

.....

Shri Banamali Behera, aged 40 years, son of Satyananda Behera of Village-Badakhandayata, PO-Alando, Via-Sompur, District-Jagatsinghpur Applicant

Petitioner appeared in person.

Vrs.

1. Union of India, represented by its Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Senior Post Master, Cuttack G.P.O., Cuttack.
3. Director of Postal Services(Headquarters), Office of the Chief Post Master General,Orissa Circle, Bhubaneswar

.... Respondents

Advocate for respondents - Mr.S.B.Jena,
A.C.G.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

S. Som

In this Application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the order dated 20.7.1992 at Annexure-4 removing the applicant from service and the order dated 21.12.1992 at Annexure-5 of the appellate authority confirming the order of the disciplinary authority. The second prayer is for a direction for reinstatement of the

applicant with effect from the date of his removal with all consequential benefits.

2. The case of the applicant is that while he was working as Postman at Cuttack G.P.O., a major penalty proceeding was initiated against him in order dated 5.11.1990 at Annexure-1. The charge against him was that when the applicant was appointed as Postman, Cuttack G.P.O. on 25.11.1989 he submitted a false transfer certificate No.25 dated 12.1.1971 purported to have been issued by Headmaster, Tarikund High School, in support of his educational qualification. It was charged that thereby the applicant has failed to maintain absolute integrity and has acted in a manner which is unbecoming of a Government servant. The applicant has stated that prior to his promotion to the post of Postman he was working as E.D.Packer, Chhatrabazar NDTSC, Cuttack, since 6.12.1983. The order appointing the applicant as ED Packer, Chhatrabazar NDTSC, Cuttack, is at Annexure-2. The applicant has stated that before issue of the appointment order appointing him as ED Packer, in letter dated 1.11.1983 (Annexure-3) the applicant was asked to submit original school leaving certificate for verification and after verification the appointment order at Annexure-2 was issued. The inquiring officer held that the charge was proved and submitted his report dated 29.6.1992 holding the applicant guilty of the charge. The disciplinary authority in the impugned order dated 20.7.1992 (Annexure-4) accepted the findings of the inquiring officer and removed the applicant from service of Postman. The applicant preferred an appeal to the Director of Postal Services, Bhubaneswar, on 22.8.1992 and the appellate authority in the impugned order dated 21.12.1992 (Annexure-5) rejected his appeal confirming the order of punishment. The applicant has made

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various averments with regard to the evidence given by different witnesses during the enquiry and the findings of the inquiring officer and it is not necessary to refer to those averments at this stage. In the context of the above facts, the applicant has come up in this petition with the prayers referred to earlier.

3. The respondents have stated that the applicant was working as ED Packer, Chhatrabazar NDSO. He was provisionally appointed as Postman in Cuttack G.P.O. in order dated 25.11.1989 subject to satisfactory verification of his date of birth, educational qualification, etc. At the time of his appointment, the petitioner produced Transfer Certificate No. 25 dated 12.1.1971 purported to have been issued by Headmaster, Tarikund High School in support of his educational qualification and date of birth. This was subsequently found to be a bogus one on verification through Sub-Divisional Inspector (P), Cuttack Central Sub-Division, Cuttack. He was proceeded against under Rule 14 of Central Civil Services (Classification, Control & Appeal) Rules. The applicant denied the charge and desired to be heard in person. The inquiring authority and presenting officers were appointed and the charges were enquired into. The charges were held proved by the inquiring officer. Thereafter showcause notice was issued to the applicant and a copy of the report of the inquiring officer was supplied to him on 1.7.1992. The applicant's representation dated 13.7.1992 was considered and the punishment of removal from service was imposed by the Senior Post Master, Cuttack G.P.O. on 20.7.1992. His appeal dated 27.8.1992 to Director of Postal Services was also rejected on 21.12.1992. The respondents have stated that at the time of his initial appointment in the post of ED

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Packer, no verification was made of the certificate by the then S.D.I.(P), Cuttack North Sub-Division, Cuttack. The respondents have made various averments questioning the submissions of the applicant in his petition with regard to the charge and the findings. They have further stated that in view of the gravity of the charge proved against the applicant the punishment is quite justified and therefore they have opposed the prayers of the applicant.

4. We have heard Shri Banamali Behera, the applicant in person and Shri S.B.Jena, the learned Additional Standing Counsel for the respondents. At the time of hearing it was noticed that copy of the enquiry report has not been submitted by either side. Accordingly, we obtained a copy of the enquiry report on the date of hearing and have gone through the same.

5. The first point urged by the applicant is that the document asked for by him was not given to him. In his petition, the applicant has not stated as to what documents he asked for and were not supplied to him. From the report of the inquiring officer it appears that the applicant asked for ⁽ⁱ⁾ the original educational certificate submitted by him at the time of his appointment as ED Packer, (ii) the attestation form of the applicant submitted at the time when he was appointed as ED Packer, and (iii) the report of verification of his educational certificate at the time of his appointment as ED Packer. From the report of the inquiring officer it appears that the second document, i.e., attestation form was produced by the presenting officer and the applicant perused the same. It cannot therefore be said that the second document was not shown to him. As regards the first document, i.e., the original educational certificate submitted by the applicant at the time of his appointment to the post of ED

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Packer it has been noted by the inquiring officer that the original certificate was taken back by the applicant on 17.7.1984 on a request made by him and the presenting officer produced the dated acknowledgement of the applicant in support of his having taken back the original educational certificate. In view of this, it is clear that so far as this document is concerned, it was available with the applicant himself and the departmental authorities could not have produced the same. The third document is the report of verification of the educational certificate at the time of his appointment as ED Packer. In course of the enquiry it has been proved that at the time of applicant's appointment as ED Packer no verification of the transfer certificate was made and therefore no verification report was there. Therefore, the departmental authorities could not have supplied a document to the applicant which was not there to start with. In view of this, it cannot be said that the applicant has been prejudiced in any way by non-supplying of the third document when there was no such document. This contention of the applicant is therefore rejected.

5. The second contention of the applicant flows from the above. His contention is that as at the time of his appointment as ED Packer, the same transfer certificate was verified and found correct, the departmental authorities are estopped from verifying the same again. We are not prepared to accept the above contention firstly for the reason that it has come on record during enquiry that at the time of applicant's appointment as ED Packer, the Transfer Certificate though submitted by the applicant in original was not actually verified. Even if it is taken for argument's sake that it was verified and no defect was noticed, that does not preclude the departmental authorities to verify the same again at a later stage. The main point for consideration is

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whether the document is genuine or not. This contention is also therefore rejected.

6. In this case the Transfer Certificate No. 25 dated 12.1.1971 submitted by the applicant was purportedly issued by the Headmaster, Tarikund High School. The Headmaster has been examined and he has deposed in his statement that he has been working as Headmaster from 1985 in that school and prior to that he was working as Assistant Teacher in the same school since 1960. He has verified the school records and found that no such Transfer Certificate had been issued from the school and he has intimated this fact in his letter No.162 dated 2.12.1989. The Headmaster has been examined and the inquiring officer has relied on the evidence of the Headmaster.

7. The next point urged is that the Sub-Divisional Inspector (P), Cuttack Central Sub-Division, who was entrusted with the verification of the Transfer Certificate after appointment of the applicant as Postman has stated in his deposition that he has not personally verified the school records. On that ground it is urged that the evidence of the Sub-Divisional Inspector (Postal) should not have been relied upon by the inquiring officer. The person who is in custody of the school records, i.e., the Headmaster has himself verified and given a report that the Transfer Certificate in question is a bogus one. In view of this, it was not required for the Sub-Divisional Inspector (Postal) to verify the Transfer Certificate in the school records himself. This contention is also without any merit.

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8. After going through the enquiry report we find that the inquiring officer has elaborately discussed the evidence, the defence plea taken by the applicant and has come to a finding that the charge has been proved. This

finding has been accepted by the disciplinary authority. Law is well settled that in the matter of disciplinary proceedings, the Tribunal does not function as the appellate authority and cannot substitute its finding and judgment in place of the finding and the decision arrived at by the inquiring officer and the disciplinary authority. The Tribunal can interfere only if there has been denial of reasonable opportunity for violation of rules of natural justice or if the findings are based on no evidence or are patently perverse. We have already dealt with the plea of the applicant that he was denied reasonable opportunity by not supplying him the documents asked for. After going through the report of enquiry, we find that this is definitely not a case of no evidence or the findings cannot be held to be perverse. On the contrary, there is sufficient material on the basis of which the inquiring officer has come to a reasonable finding.

9. The charge involves here is serious. The applicant has produced a bogus document in support of his educational certificate and date of birth at the time of his appointment to Group-C category post of Postman in the Department. In view of this, the punishment cannot be called excessive. There are decisions that where an employment has been secured by submission of false and forged document, on detection the incumbent is liable to be removed from such employment.

10. In consideration of all the above, we hold that the application is without any merit and the same is rejected but, under the circumstances, without any order as to costs.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
25.8.99
VICE-CHAIRMAN