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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 544 OF 1994
Cuttack this the 20th day of Oct. /2000

Bhaskar Chandra Kar

...

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 ? 11+

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
20.10.2000

20.10.2000
(G.NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 544 OF 1994
Cuttack this the 20th day of October/2000

CORAM:

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

...

Shri Bhaskar Chandra Kar, aged about
64 years, S/o. Late Harihar Kar,
At/PO - Singri, Via - Matrapur,
PS: Nilgiri, District - Balasore

...

By the Advocates

Applicant

M/s. Pradipta Mohanty
D. Mohapatra
G.S. Satpathy
Smt. J. Mohanty

-VERSUS-

1. Union of India represented by it's Secretary
in the Department of Posts, Dak Bhawan,
New Delhi
2. Chief Post Master General,
Orissa Circle, At/PO-Bhubaneswar,
District - Khurda
3. Director of Postal Services,
Office of the Chief Post Master General,
Orissa Circle, Bhubaneswar, District: Khurda
4. Senior Superintendent of Post Offices,
Balasore Division, At/PO - Balasore,
District - Balasore
5. Assistant Superintendent of Post Offices,
(OO) Balasore Division, Balasore,
Inquiry Officer
6. Assistant Superintendent of Post Offices,
(Hqrs.) Balasore Division, Dist - Balasore
Presenting Officer

...

By the Advocates

Respondents

Mr. U.B. Mohapatra
Addl. Standing Counsel
(Central)

O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL): In this Application filed
on 11.7.1994, the applicant seeks to quash order dated 11.12.1992
(Annexure-6) of the Disciplinary Authority (Respondent No. 4)
removing him from service and also order dated 25.8.1993 (Annexure-
9) of the Appellate authority, confirming the order of the
Disciplinary Authority.

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2. the While applicant was serving as Extra Departmental Branch Post Master in Singri Branch Office in account with Mitrapur S.O. under Balasore Head Post Office, he was served with Charge Memo dated 21.9.1990 (Annexure-1) on the ground that though on 5.5.1989 he received Rs.500/- from Shri N.Mahalik, holder of S.B. Account No.1133409 and though he endorsed the receipt in the Passbook Account, did not account the same in the relevant register in the Branch Office Account, and thereby he failed to maintain absolute integrity and devotion to duty and thus violated the provisions of Rule - 17 of E.D. Agents (Conduct & Service) Rules, 1964. The Charge Memo further reveals that on 29.1.1990 the Depositor Narayan Mahalik lodged a complaint alleging non - accounting of the amount and after receipt of this complaint this non-deposit could be detected. Thereafter the applicant voluntarily credited a sum of Rs.500/- along with penal interest of Rs.23.40 thereon, i.e. a total amount of Rs.523.40 at Mitrapur S.O. on 1.2.1990. In the written statement submitted by the applicant on 31.10.1990 (Annexure-B/4) the applicant denied the charges in toto. The Enquiring Authority on completion of inquiry held the charge proved vide Annexure-4. The applicant submitted a representation on 2.12.1992 in response to receipt of the inquiry report (Annexure-5). Thereafter the Disciplinary Authority passed the impugned order which was ultimately confirmed by the Appellate Authority.

3. The case of the applicant is that the evidence on record has not been considered by the Disciplinary Authority or the Appellate Authority in proper perspective and the punishment of removal is indeed disproportionate to the charge levelled against him.

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4. In the counter the Department justify the punishment of removal from service by stating that the applicant has been afforded reasonable opportunity to defend himself and there is no procedural lapse in the proceedings conducted. The punishment of removal from service is in no way excessive. On the above grounds Respondents pray for dismissal of this Application.

4. No rejoinder has been filed by the applicant.

5. We have heard Shri D.N.Mohapatra, the learned counsel for the applicant and Shri U.B.Mohapatra, the learned Additional Standing Counsel appearing for the Respondents (Department). Also perused the records.

6. It is apparent from the materials available that there is no dispute that on 5.5.1989 the applicant received for deposit an amount of Rs.500/- from the depositor N. Mahalik and though he endorsed the same in the S.B. Passbook did not enter the transaction in the concerned Register of the Sub-Office. There is also no dispute that after receipt of the complaint from the depositor, this non-entry could be detected and thereafter on 1.2.1990 the applicant deposited an amount of Rs.500.00 and penal interest of Rs.23.40 at Mitrapur S.O. In other words, for about eight months, the amount was not entered into the concerned Register of the Branch Post Office. This being so, we do not find any illegality or irregularity committed by the departmental authorities in holding the applicant guilty of the charge.

The learned counsel for the applicant, however, brought to our notice that this non-entry by the applicant was under bonafide mistake due to forgetfulness, because, during inquiry the applicant deposed that on 5.5.1989, while he was sitting in his grossery shop in the evening, the depositor turned up and entrusted an amount of Rs.500/- to be deposited

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in the S.B. Account and though he endorsed the amount in the S.B. Passbook forget to enter the same in the Post Office register. This aspect of the evidence was considered by the Inquiring Officer as well as the disciplinary authority. Both of them concurrently found that this plea of the applicant was an afterthought inasmuch as in the written statement, in response to the charges served on him, the applicant had not taken this plea. This Tribunal not being the appellate or the revisional authority cannot disturb this concurrent finding. Hence the plea that punishment of removal is excessive with reference to the charge cannot not accepted.

¶ However, it cannot be lost sight of that soon after the detection of non-entry on receipt of the complaint made by the depositor, the applicant made good the pecuniary loss to the Department by depositing Rs.523.40, which includes penal interest of Rs.23.40. There is no material available on record as to his previous misconduct, if any. His averment in Para-4(1) of the Original Application that he had 20 years of unblemish service has not been countered in the counter. Since the punishment of removal is not a legal bar for future employment, if any, the Department may consider his re-employment as EDDA/M.C., or any equivalent post in case the applicant applies for the same.

9. In the result, Original Application is ^{disposed of} ~~dismissed~~ with the observations made above, but without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

22.10.20
(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//