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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION No. 656 of 1994
CUTTACK THIS THE 23rd DAY OF JULY, 2001

Niranjan Nayak Petitioner

- Vers.-

Union of India & Others Opp. Parties

For Instructions

1. Whether it be referred to 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)
VICE-CHAIRMAN
23.7.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 656 of 1994
CUTTACK THIS THE 23rd DAY OF, JULY, 2001

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

THE HON'BLE SHRI G. NARASIMHAM, MEMBER (J)

.....

Niranjan Nayak,
S/o. Late Dinabandhu Nayak,
of vill. Dharmagatpur,
P.O. Mirzapur, Via. Sungura,
P.S. Salipur, Dist. Cuttack Petitioner

By the Advocate (s)

M/s S.N. Misra
B. Dash
G.P. Mohapatra

- VERSUS -

1. Union of India through its Director General, Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Post Master General, Orissa, At/Po/PS-Bhubaneswar, Dist-Khurda.
3. Superintendent of Post Office, Cuttack (South) Division, At/Po/PS/Dist-Cuttack.
4. Asst. Superintendent of Post Offices, Mayurbhanj Division, At/Po/PS- Baripada, Dist-Mayurbhanj

..... Respondent(s)

By the Advocate (s)

Mr. S.B. Jena

SOMNATH SOM, VICE-CHAIRMAN: In this original application the petitioner has prayed for quashing the disciplinary proceedings at Annexure-3. The enquiry report at Annexure-4 and the order of punishment dated 18.2.1994 at Annexure-6. Before proceeding further it has to be noted that at Annexure-3 the applicant has not enclosed the enquiry report but only the forwarding letter.

2. Respondents have filed counter opposing the prayer of the applicant. No rejoinder has been filed. In pursuance of order dated 23.11.1994 Respondents have filed the original enquiry report, copy of the order sheet of the enquiry proceeding as furnished to the petitioner and copies of written brief of the petitioner to the enquiry officer. We perused all these documents. For the purpose of considering the petition it is not necessary to go into too many facts of this case. We have heard Shri S.N. Mishra Learned Counsel for the petitioner and Shri S.B. Jena Learned Additional Standing Counsel for the Respondents.

3. The case of the petitioner is that his father was serving as Group 'D' employee in Postal Department who was retired on medical ground. The father of the petitioner moved for giving compassionate appointment to his son. The petitioner has stated that his date of birth is 21.6.1966 and he studied up to Class VII in Bhagabati Vidyapitha after which he discontinued his studies in 1982. A copy of the transfer certificate issued by Head Master of the above School is at Annexure-1. By order dated 31.3.1987 applicant was given theoretical and practical training for 10 days w.e.f. 1.4.1987

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and by order dated 21.3.87 he was appointed as Postman in Paradeep Sub-post Office w.e.f. 31.3.1987. On 12.5.1982 departmental proceedings were initiated against him on the ground that he produced false educational certificate and furnished false information about his educational qualification and date of birth. The petitioner submitted his explanation on 13.12.92 denying the charges. He was placed under suspension, pending conclusion of the disciplinary proceedings. Applicant has stated that the enquiry officer who was appointed to enquire into the charges committed a number of irregularities and principles of natural justice were violated. On getting the enquiry report petitioner submitted his representation to the disciplinary authority who by order dated 18.2.1994 (Annexure-6) removed the petitioner from service. Petitioner submitted appeal dated 2.4.94 (Annexure-7) which is still pending. The applicant has made several averments as to how several irregularities were committed by the enquiry officer and how the principles of natural justice were violated. These will be referred to while considering the submissions of Counsel of both sides. In the context of the above fact the applicant has come up with the prayers referred to earlier.

4. Respondents in their counter have stated that after retirement of applicant's father on medical ground the petitioner applied for appointment on compassionate ground. On the basis of the synopsis and attested copy of Transfer Certificate No.76 dated 26.7.80 etc the Circle Relaxation Committee directed appointment of applicant as a Postman on compassionate ground. He was appointed as postman in Paradeep Branch Office on 13.4.87. Before his appointment attestation form in duplicate for police verification was submitted by the applicant in which

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he mentioned his date of birth as 26.1.63 and the name of the School where he was reading from 17.7.1978 to 22.7.1980 was mentioned as Odasingh High School. His qualification was mentioned as having read up to Class IX. This was signed by the applicant. The first page of the entries in the Service Book was also made with the signature of the applicant with date of birth as 21.1.1963 as per Transfer Certificate No.76 dated 22.7.1980. Subsequently when these documents were verified and the Transfer Certificate was got verified from the concerned High School it was found that Transfer Certificate was not a genuine one. Respondents have stated that the original Transfer Certificate is not available in file. The vigilance cell of the circle office conducted enquiry and directed departmental enquiry against the applicant for having acquired a job in the Department by virtue of fake educational certificate and by giving false date of birth and at the conclusion of the departmental enquiry applicant was removed from service. His appeal was also rejected in order dated 15.12.1994. Respondents have made averments in their counter stating that all reasonable opportunities were given to the applicant and the finding has been correctly arrived at the enquiry officer and the disciplinary authority. On the above grounds they have opposed the prayer of the applicant.

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5. Before proceeding further it has to be noted that in a disciplinary proceedings the Tribunal does not act as an appellate authority and cannot substitute its findings in place of findings arrived at by the enquiring officer or the disciplinary authority. Tribunal can interfere only if there has been denial of reasonable opportunities or if principles of natural justice have been violated. Tribunal can also

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interfere if the findings are based on no evidence or are patently perverse. The submissions made by the Learned Counsel for the petitioner have to be considered in the context of the above well settled position of law.

6. Before doing that the charge against the applicant can be noted. The single charge against the applicant is that he secured appointment of postman by producing false educational certificate and furnishing false information about his educational qualification and date of birth. Enquiry officer in his report has held the charge as proved. The disciplinary authority has accepted the finding of the enquiry officer and has imposed the punishment of removal from service. His appeal has also been rejected.

7. It has been submitted by the Learned Counsel for the Petitioner that the original School Leaving Certificate alleged to have been submitted by the applicant showing his date of birth as 26.1.63 and his educational qualification as having read up to Class-IX has not been produced during the inquiry from the custody of SPO Cuttack South Division. Had this been produced then the applicant could have proved that the Transfer Certificate has not been produced by him. Non production of this document has resulted in denial of reasonable opportunity. Respondents have stated in this counter that the original document is not available in file; naturally the Respondents could not produce the original document. But the charge of giving false information regarding educational qualification and date of birth is not based only on this transfer certificate. In the synopsis submitted by the applicant which is at Annexure R/2. The date of birth has been
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mentioned by the applicant as 26.1.1963 and educational qualification as Class-IX. According to his own averment in this O.A his date of birth is 21.6.66 and he was read up to Class-VII. As there is independent documents showing that applicant did make false averment with regard to date of birth and educational qualification non-production of the transfer certificate dated 22.7.80 copy of which at Annexure R/1 has not resulted in denial of any reasonable opportunity to him even if it is granted for argument's sake that the applicant did not produce the transfer certificate dated 22.7.1980. It is clear that he has stated in the synopsis that his date of birth is 26.1.63 and he has read up to Class-IX. This contention is therefore held to be without any merit.

8. Second ground urged by the Learned Counsel for the petitioner is that on conclusion of the case of the prosecution he wanted to produce his original educational certificate issued by the Headmaster Bhagabati Vidyapith and DGP's letter dated 25.9.87. But these documents were not allowed to be produced. But this has also not prejudiced the case of the applicant in any way because even if it is taken for argument's sake the applicant did study ~~in~~ up to class VII and his date of birth was 21.6.66 this does not explain the recording of the synopsis signed by him giving false information regarding date of birth and educational qualification. This contention is also therefore held to be without any merit. In the attestation form signed by him before his appointment he has mentioned his date of birth as 26.1.63 and that he was studied up to Class-IX in Odasingh High School. There is no explanation why in the attestation form he had made statements which according to his own averment in the original application are incorrect. Moreover in the first

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page of the Service Book signed by him, the same wrong date of birth and wrong educational qualification have been mentioned.

Applicant has stated that his signing the first page of the Service Book does not mean that he accepted the entries made therein. The purpose of getting the signature of the employee in the first page of the Service Book is precisely for the purpose of noting that the entries therein have been made according to his information. In view of this we find no reason to hold that the inquiry officer or the disciplinary authority came to a finding which is based on no evidence. On the other hand even in the absence of the original Transfer Certificate there is overwhelming evidence that the applicant gave false information with regard to his date of birth and educational qualification and the name of the School.

9. It is further submitted by the Learned Counsel for the petitioner that even going by his correct date of birth i.e. 21.6.66 and his correct educational qualification as his having read up to Class-VII, he was eligible to be considered for appointment as postman and there was no reason for him to furnish false information on these two points. This contention is also without any merit. The reasons which prompted the applicant to give false information regarding his date of birth/educational qualification are not material. The fact that he gave false information on these two points is sufficient for initiating disciplinary proceedings against him. Therefore the contention that the applicant would have derived no benefit by providing false information on these two points is not ^{of} any material consequence.

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10. We have gone through the inquiry report and we find that

the inquiry officer has gone into the matter in detail and his finding cannot be held to be patently perverse. The order of the disciplinary authority is also a reasoned one and there is no infirmity in these two documents.

11. In consideration of the above we hold that the application is without any merit and the same is rejected but without any costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

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(SUMNATH SOM)
VICE-CHAIRMAN
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