

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 835 OF 1994
Cuttack this the 28th day of February/2001

B.K. Ray ... 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 ? 45

Somnath Sircar
(SOMNATH SIRCAR)
VICE CHIEF JUSTICE
28.2.2001

28.2.2001
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
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ORIGINAL APPLICATION NO.835 OF 1994
Cuttack this the 28th day of February/2001

CORAM:

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

Byoma Kishore Ray, aged about 27 years,
Son of Late Kamal Lochan Ray, of Village/
PO: Garhrupsa, Via-Gop, District-Puri

By the Advocates

Applicant
M/s.R.N.Naik
A.Deo,
B.S.Tripathy

VERSUS

1. Union of India represented by its Secretary
in the Ministry of Communication, Department
of Posts, Dak Bhawan, New Delhi
2. Chief Post Master General, Orissa Circle,
Bhubaneswar, Dist-Khurda
3. Senior Superintendent of Post Offices,
Bhubaneswar Division, Bhubaneswar, Dist-Khurda
4. Sub-Divisional Inspector of Posts, Nimapara
Sub-Division, Nimapara, District-Puri

By the Advocates

Respondents
Mr.J.K.Nayak,
Addl.Standing Counsel
(Central)

ORDER

MR.G.NARASIMHAM, MEMBER (JUDICIAL): In this Original Application applicant challenges the order dated 29.3.1994 (Annexure-5) of the Disciplinary Authority (Respondent No.3) removing him from the post of Extra Departmental Branch Post Master, Garhrupsa B.O. He preferred departmental appeal (Annexure-6) before Respondent No.2. As the appeal was not disposed of, he preferred this Original Application on 30th December, 1994. As the O.A. has been admitted, the appeal stood abated under Section 19(4) of the Administrative Tribunals Act, 1985.

2. In memo dated 20.5.1992 (Annexure-1) charges were

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framed under three heads. First charge is that he did not impress the date stamp in the R.D.Pass Book of Saraswati Ray after entering receipt of Rs.976 on 31.8.1990 and misappropriated an amount of Rs.150/- after receiving from Saraswati Ray on 30.10.1991 relating to the said R.D.Account without crediting that amount to the Govt. Account. The second one is that on 27.9.1991 he received V.P.P. amounting to Rs.473/- belonging to addressee Bana Bihari Mohanty and temporarily misappropriated till 12.11.1991 on which day he credited the amount. The last charge is that when S.D.I.(P) Nimapara visited his office on 6.9.1991 for verification purpose he did not produce the records. Again on 31.12.1991 when the S.D.I.(P) visited, he misbehaved with him and obstructed him.

On denial of charges inquiry was conducted and finally the Disciplinary Authority passed the impugned order.

3. The main ground of attack in this application is that copies of certain documents relied on by the Department have not been supplied to him and ~~this~~ principles of natural justice were grossly violated to his prejudice. Further evidence of the Department suffers from contradictions and should have been rejected.

4. While opposing the prayer of the applicant, the Department in their counter take the stand that reasonable opportunity was afforded to the applicant and his defence. With his defence assistant the applicant inspected documents. Even during inquiry copies of all the relevant documents were supplied to him. He then examined those copies from his side. Inquiring Authority as well as Disciplinary Authority, after scrutinising the evidence held the charges proved.

5. No rejoinder filed. We have heard Shri J.K.Nayak, learned Addl. Standing Counsel and perused the record. As counsels for the applicant remained absent they were not heard.

6. Law is well settled that a Court or a Tribunal cannot assume the role of an Appellate Authority in appraising the evidence in a disciplinary proceeding unless the finding in such proceeding is based on no evidence or arbitrary ~~are~~ ^{and} or perverse, that no reasonable person would act upon such evidence or is arrived at gross violation of the principles of natural justice to the prejudice of the delinquent.

7. Though in the applicabthit is averred copies of documents have not been supplied the same have not been ~~mailed~~ ^{Specified} supplied. On the other hand the version in the counter that copies of statement documents were supplied has not been countered through any rejoinder. This apart order sheet dated 28.7.1992 of the inquiring proceeding annexed to the counter is clear that the applicant in presence of the defence assistant again inspected listed documents and had taken extracts.

8. During inquiry 8 witnesses were examined from the side of the Department and 3 from the side of defence. Eighteen documents were exhibited. Exhaustive report of the I.A. (Annexure -3) consists of 29 typed sheets dealt all these documents with discussion of the evidence of all the witnesses including defence witnesses. So also the report of the Disciplinary Authority (Annexure-5) is exhaustive. We have carefully perused both these reports which do not suffer from any legal flaw, and are satisfied that findings are justified. Since

misappropriation is proved, punishment is justified.

9. In the result, we do not see any merit in this O.A., which is accordingly dismissed. No costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
[28.2.2001]

28.2.2001
(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//