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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.366 OF 1995
Cuttack this the 18th day of March/2002

P.K.Mishra

...

Applicant (s)

-VERSUS-


Union of India & Ors


...

Respondent (s)

(FOR INSTRUCTIONS)

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


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(M.P. SINGH)
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: **CUTTACK**

ORIGINAL APPLICATION NO. 366 OF 1995
Cuttack this the 18th day of March/2002

CORAM:

THE HON'BLE MR. M. P. SINGH, MEMBER (ADMINISTRATIVE)
AND
THE HON'BLE MR. M. R. MOHANTY, MEMBER (JUDICIAL)
...

Sri Prafulla Kumar Mishra,
S/o. Late Maheswar Mishra,
Vill/Kurla Post/Mangaspur
Dist-Sundargarh, PIN-770019

... Applicant

By the Advocates

Mr. P. K. Padhi

-VERSUS-

1. Union of India, through its Secretary, Ministry of Communications, Dak Bhawan, New Delhi-110001
2. Director of Postal Services, O/O Postmaster General, Sambalpur, At/PO/Dist-Sambalpur-769001
3. Sr. Superintendent of Post Offices, Sundargarh Division Sundargarh, PIN-770 001

... Respondents

By the Advocates

Mr. A. K. Bose,
Sr. Standing Counsel

O R D E R (ORAL)

MR. M. P. SINGH, MEMBER (ADMINISTRATIVE): By filing this Application, the applicant has sought for direction to quash order dated 21.4.1994 passed by Respondent No. ³²4, imposing penalty of removal from service and also the order dated 20.1.1995 passed by the Appellate Authority rejecting his appeal, against the said order of penalty.

2. The facts in brief are that the applicant, while functioning as Sub Post Master, Kutra S.O. in Sundargarh Division, was proceeded against under Rule-14 of C.C.S. (CCA) Rules, 1965, vide Memo dated 29.1.1991 on the allegation of irregularities as he failed to maintain

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absolute integrity, devotion to duty and acted in a manner unbecoming of a Government Servant and thereby violated the provision of Rule-3(1)(i)(ii) and (iii) of C.C.S.(Conduct) Rules, 1964. The Inquiry Officer was appointed by the Disciplinary Authority to enquire into the charges and the Inquiry Officer, after considering the evidence adduced before, concluded that the charges framed against the applicant have been proved. He, accordingly submitted a copy of the **inquiry** report to the Disciplinary Authority, who forwarded a copy of the report of the Inquiry Officer to the applicant on 8.9.1992, asking representation, if any, from the applicant. The applicant thereafter submitted representation on 1.10.1992. Respondent No.3, after considering the report of the Inquiry Officer, documentary and oral evidence adduced during inquiry, and the representation dated 1.10.1992 of the applicant, imposed the penalty of removal from service of the applicant vide Memo dated 21.4.1994 (Annexure-1). The appeal filed by the applicant against the said order of penalty was rejected by the Appellate Authority vide order dated 20.1.1995(Annexure-2). Hence this application with the prayers referred to above.

3. Respondents have filed their reply, inter alia stating that during the cross examination by the applicant, Shri Manohar Behera deposed that the S.B.Passbook bearing No.856693 had not been lost from ^{his} the custody, ^{of} the ~~applicant~~. The applicant for issue of duplicate passbook dated 13.3.1990 has ^{been requested} ~~submitted~~ when the aforesaid passbook

could not be found out from the custody of the post office. Since the passbook has been lying under the custody of the post office but not traceable, the depositor has stated the reasons of loss of passbook as lost from the custodian, which leads to mean that it has been lost from the custody of the post office. Accordingly during crossexamination by the applicant, Shri Manohar Behera deposed vide Annexure-R/34 that the fact of loss of passbook had not been reported to the police. Therefore, the applicant is responsible for the loss of the S.B.Passbook A/C. No.856693 and the subsequent fraudulent withdrawals of Rs.14,000/- in two spells. The applicant did not adduce any evidence either oral or documentary in support of his version as stated in this O.A. Respondents have further stated that the charges against the applicant have been proved on the basis of documentary and oral evidence. The punishment has been awarded after affording him reasonable opportunity by the Inquiry Officer as well as the Disciplinary Authority, commensurate to the gravity of offence. It is stated by the respondents that the principles of natural justice having been observed fully, it is not violative of Articles 14 & 16 of the Constitution. They have, therefore, prayed that the O.A. being devoid of any merit deserves to be dismissed.

4. Heard Shri P.K.Padhi, the learned counsel for the applicant and Shri A.K.Bose, learned Sr.Standing Counsel for the Respondents.

5. During the course of argument, the learned counsel

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for the applicant submitted that the Respondent No.2 without considering the appeal and without considering the points raised by the applicant in the appeal, as required under Rule-27(2) of C.C.S.(CCA) Rules, 1965, passed a non-speaking order upholding the punishment of removal from service. Had the Respondent No.2 gone through the documents and considered the points raised by the applicant in his appeal, he could not have come to the conclusion that the applicant ~~was~~ is guilty. Shri Padhi also submitted that the punishment imposed on the applicant is disproportionate, harsh and is not commensurate with the misconduct. He further submitted that the Hon'ble Supreme Court vide their judgment dated 14.12.1982 in the case of R.P.Bhatt vs. Union of India and Ors. reported in AIR 1986 SC 1041 have held as under:

"Removal from service - Appeal against -
Dismissal of - Non-compliance with requirement
of Rule-27(2) - Order dismissing appeal was
liable to be set aside. Judgment of Delhi
High Court, reversed."

The learned counsel for the applicant also relied upon a catena judgments of the Hon'ble Supreme Court. On the ^{other} hand, the learned counsel for the respondents submitted that the order passed by the Disciplinary Authority is as detailed and exhaustive one as all the points raised by the applicant in this O.A. have been duly considered by him before imposing penalty. The Appellate Authority has also agreed to the reasonings given by the Disciplinary Authority and has accordingly rejected the appeal.

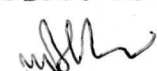
6. On the perusal of the records we find that the

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respondents have held the inquiry in accordance with the prescribed procedure, rules and instructions. The applicant has been given full opportunity of hearing and thus, the principles of natural justice have been observed by the respondents. It is the settled position of law that the Tribunal/Court cannot reappreciate the evidence nor can it go into the quantum of punishment imposed by the Disciplinary Authority, unless it shocks the conscience of the Court/Tribunal. In this case, the charges against the applicant are serious inasmuch as loss to the public exchequer is ^{involved &} ~~concerned~~. We also do not find that the punishment imposed on the applicant is in any way disproportionate. As regards the non speaking order, we find that the order passed by the Disciplinary Authority is a detailed and exhaustive one basing on the inquiry report and all the materials available on record. The Appellate Authority has agreed to the reasonings given by the Disciplinary Authority and has rejected the appeal. Therefore, the order passed by the Appellate Authority cannot be construed a cryptic order, as it has been passed with due application of mind. In this view of the matter, we do not find any ground to interfere with the orders of the Disciplinary Authority as well as the Appellate Authority.

In the light of the discussions held above, the O.A. fails and therefore, the same is dismissed. No costs.


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(M.P. SINGH)
MEMBER (ADMINISTRATIVE)

B.K. SAHOO //