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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.30 OF 1996
Cuttack this the 12th day of July, 2001

Giridhari Bisoi ... Applicant(s)

-VERSUS-

Union of India & Others ... 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 Central Administrative Tribunal or not ?

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
12.7.2001

12.7.01
(G.NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.30 OF 1996
Cuttack this the 12th day of July, 2001

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)
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Giridhari Bisoi, aged about 60 years,
At/PO - Soura Chhachina, Via-Beguniapada
Dist - Ganjam - 761 031

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Applicant

By the Advocates

M/s. P.V.Ramdas
P.V.Balakrishna
Rao

-VERSUS-

1. Union of India represented by the
Chief Post Master General, Orissa Circle,
Bhubaneswar-751001
2. Director, Postal Services (H.Q.), Orissa,
Bhubaneswar-751001
3. Senior Superintendent of Post Offices,
Berhampur (GM), Division, Berhampur
Dist - Ganjam, PIN 760 001

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Respondents

By the Advocates

Mr.A.K.Bose,
Sr.St.Counsel
(Central)

O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL): Applicant, an Extra
Departmental Delivery Agent challenges the order of removal
from services passed by the Senior Superintendent of Post
Offices, i.e. the Disciplinary Authority in order dated
31.1.1982 (Annexure-R/1). Earlier he had approached this
Tribunal in O.A.175/94. That O.A. was disposed of by the
Tribunal in order dated 6.4.1994 with the direction that
the Appellate Authority, i.e. Director of Postal Services
(Respondent No.2) would dispose of the appeal on merits
and that the applicant was further directed to file another

appeal before that Appellate Authority. Thereafter the Appellate Authority by order dated 31.7.1995 (Annexure-3) ~~upheld~~ the order of removal passed by the Disciplinary Authority. Hence this Original Application.

2. The applicant was charged in Memo dated 30.5.1980 which contained imputations that during the absence of B.P.M., he had forged the signature of the payee Anand Mohanty of Village - Belapara on M.O. dated 4.11.1978 for Rs.500/- on 17.11.1978 and misappropriated the amount. After forgery he showed the amount as paid in the Daily Account and sent the M.O. paid voucher along with Daily Account to the Accounts Office, without the knowledge of the B.P.M. On 26.11.1978, the payee made a complaint before the B.P.M. alleging non payment of Money Order to him. Then the applicant attempted to pay the said amount of Rs.500/- to the payee, who denied to accept the same. The applicant denied the charge, whereafter the charge was enquired and ultimately the punishment of removal from service was awarded.

3. The grievance of the applicant is that offence of forgery cannot be substantiated unless the signatures are examined by the hand-writing expert and mere examination of the payee is not sufficient. Further he was not given an opportunity to submit explanation before imposition of major penalty.

4. The Department in their counter submit that it is not necessary to obtain an opinion of handwriting expert on each occasion whenever there is dispute with regard to genuineness of signature. Further reasonable opportunity has been afforded to the applicant to defend his case in the

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the disciplinary proceedings.

5. No rejoinder has been filed by the applicant.

6. We have heard Shri P.V.Ramdas, the learned counsel for the applicant and Shri A.K.Bose, learned Senior Standing Counsel. Also perused the records.

b. Barring that the opinion of the hand-writing expert was not obtained, Shri Ramdas, the learned counsel for the applicant could not point out anyother procedural irregularity/ illegality in the proceedings to the prejudice of the applicant. However, Shri Ramdas submitted that the findings of the Disciplinary Authority ^{are} ~~is~~ based on conjectures and surmises, which will be dealt later. There is no legal requirement for issuing a notice to show cause on the question of penalty proposed to be awarded.

Shri Ramdas placed reliance on the decision reported in AIR 1996 SC 2591 (Indian Bank vs. M/s. Satyam Fibres (P) Ltd.). This was not a case of disciplinary proceedings, but a case arising under Consumer Protection Act, 1986. We have not come across any discussion by the Apex Court that whenever there is any dispute with regard to genuineness of signature on a document the same shall have to be referred to hand-writing expert for opinion. Of course the Apex Court observed that a case of forgery cannot be established by mere surmises and suspicions. There is no dispute in regard to this legal position. Yet, law is well settled that technical rules of evidence under the Indian Evidence Act are not applicable to the disciplinary proceedings. The fact remains that the payee, during enquiry disowned his signature appearing on the M.O. paid voucher. If the Disciplinary Authority placed reliance on this aspect of evidence, the Tribunal, being not an Appellate Authority

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cannot reassess that part of evidence. It is not a case where any reasonable person on the basis of that evidence cannot arrive at such findings.

We are, therefore, inclined to interfere with the findings of guilt recorded by the Disciplinary Authority and confirmed by the Appellate Authority. The penalty of removal from service in a case of forgery and misappropriation of this nature, is in no way unjust.

2. In the result, we do not see any merit in this Application which is accordingly dismissed, but without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
12.7.2001

12.7.2001
(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//