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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK

ORIGINAL APPLICATION NO. 551 OF 1996
Cuttack this the 2nd day of March / 2001

R.K. Panigrahi ... Applicant(s)

...VERSUS...

Union of India & Others ... Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? 44.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
2.3.2001

G. Narasimham
(G. NARASIMHAM)
MEMBER (JUDICIAL)
2.3.2001

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CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 551 OF 1996
Cuttack this the 2nd day of March/2001

CORAM:

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

...

Ramkrishna Panigrahi, S/o. Late S.S. Panigrahi,
Sub Post Master, Bolangir Court Post Office

...

By the Advocates

Applicant
M/s. S.K. Mund
D.P. Dash
J.K. Panda

-VERSUS-

1. Union of India represented through the Secretary, Department of Posts, Dak Bhawan, New Delhi
2. Director, Postal Services, Sambalpur Region, Sambalpur
3. Superintendent of Post Offices, Bolangir Division, Bolangir
4. Assistant Superintendent of Post Offices Incharge, Sambalpur East Sub Division, Sambalpur

...

By the Advocates

Respondents
Mr. S.B. Jena,
Addl. Standing
Counsel (Central)

O R D E R

MR. G. NARASIMHAM, MEMBER (JUDICIAL): The applicant while serving as Sub Post Master, Bolangir R.S. and was in occupation of Departmental quarters was transferred to Chudapali S.O. by order dated 7.5.1993 and was relieved on 28.5.1993. As the quarters was not vacated, penal rent was ordered to be recovered from 29.6.1993 till the vacation of the quarters. Simultaneously, on 1.11.1993 disciplinary proceeding was initiated against him for illegal retention of the quarters vide charge at Annexure-3. The applicant contested the same. Disciplinary Authority, by order dated 28.12.1995 (Annexure-4) directed reduction of four

from Rs.1570/- to Rs.1470/- in the time scale for a period of three years with effect from 1.1.1996. In appeal, the penalty was reduced in reduction of pay by one state for a period of one year without cumulative effect (Annexure-5).

In this application praying for quashing the proceedings and the penalty order, the main ground urged is that after having recovered penal rent, initiation of proceedings was uncalled for as it amounts to double jeopardy. The only course left open for the Department is to initiate a proceeding for eviction under Public Premises Eviction of Unauthorised Occupants Act.

2. The Department in their counter justify the penalty imposed on the applicant in the proceedings. No rejoinder filed.

3. We have heard Shri D.P.Das, the learned counsel for the applicant and Shri S.B.Jena, learned Addl. Standing Counsel appearing for the Respondents.

4. Facts mentioned above are not in dispute. The only point for determination is whether under such circumstances initiation of disciplinary proceeding was justified under law and whether the penalty awarded can be set aside. Shri Das, the learned counsel brought to our notice judgment of this Bench in Original Application No.46/87 disposed of on 13.4.1988 on identical issue. That case related to the penalty of compulsory retirement against Sub Post Master on the ground of illegal retention of departmental quarters, over and above recovery of penal rent under the rules. Relying on two judgments of Ahmedbad Bench in the case of Abdul Mohit vs. U.O.I. reported in 1987(1) C.A.T. 567 and Nawal Singh vs. U.O.I. reported in A.T.C. 1988(1) C.A.T. 264, this Bench held that disciplinary proceeding under such circumstance was not

maintainable and ordered for his reinstatement with consequential benefits, on the ground that such retention will not amount to misconduct. The same view was also taken by this Bench earlier on 25.3.1988 in O.A.122/87

5. This being the consistent view of this Bench, we are not inclined to take a contrary view in this case. Accordingly we quash the order dated 28.12.1995 (Annexure-4) passed by the Disciplinary Authority and order dated 18.4.1996 (Annexure-5) of the Appellate Authority imposing the penalty.

6. Original Application is allowed, but without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

2.3.2001
(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//