

8

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.425 OF 1998  
Cuttack this the 24th day of April, 2000

Jayaram Munda

...

Applicant(s)

-VERSUS-

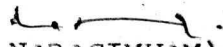
Union of India & Ors.


...

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 Central Administrative Tribunal or not ? No

  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)

  
(SOMNATH SOM)  
VICE-CHAIRMAN  
27-4-2000

9

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.425 OF 1998  
Cuttack this the 24th day of April, 2000

CORAM:

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

...

Jayaram Munda, aged about 57 years,  
Son of Late Kuba Munda, resident of  
Village : Ainthapali, District:  
Sambalpur - working as Office Assistant  
in the Office of Manager, Postal Store  
Depot, At/PO/District : Sambalpur

...

Applicant

By the Advocates

Mr. H.P. Rath

-VERSUS-

1. Union of India represented through  
it's Chief Post Master General,  
Orissa Circle, Bhubaneswar,  
At/PO:Bhubaneswar, Dist: Khurda
2. Superintendent of Postal Store Depot.,  
Sambalpur, At/PO: District:Sambalpur

...

Respondents

By the Advocates

Mr.A.K.Bose  
Sr.Standing Counsel  
(Central)

...

S. Som

2  
O R D E R

10  
MR. SOMNATH SOM, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the order of punishment vide Annexure-3.

2. The applicant's case is that while he was working as Office Assistant in the Postal Store Depot, Sambalpur, minor penalty proceedings under Rule-16 of CCS(CCA) Rules was initiated against him with three charges. After considering his explanation the disciplinary authority imposed the punishment of reduction of pay from the stage of Rs.5000/- to Rs.4750/- with effect from 1.8.1998 for a period of two years without cumulative effect and with further order that during that period of two years the applicant would not earn his usual increments. The applicant filed an appeal, but there is nothing on record whether orders, if any, passed on that appeal. In the context of the above facts the applicant has come up with the prayers referred to earlier.

3. Respondents in their counter have stated that the punishment order has been imposed by the disciplinary authority after following all the necessary rules. Minor penalty proceedings were initiated against the applicant and the applicant was duly given reasonable opportunity during the proceeding and there has not been any violation of principles of natural justice. It is stated that on consideration of explanation of the applicant the disciplinary authority held that the charges have been proved and imposed punishment which cannot be construed severe. On the above grounds the respondents have opposed the prayer of the applicant.

4. When the matter was called, learned counsel for the applicant was not present nor <sup>was</sup> any request made on his behalf seeking adjournment. As in this matter pleadings have been completed long ago, it would not be possible to drag on the matter indefinitely. We have, therefore, heard Shri A.K. Bose, learned Senior Standing Counsel appearing for the respondents and also perused the records. In the petition the applicant has stated that the impugned order of punishment has been issued without any materials on record and is based on conjecture. He has also stated that the principles of natural justice have been violated and no stock verification of gunny bags has been taken up.

5. So far as the principles of natural justice are concerned the applicant did ask for certain documents before submitting his explanation. In the impugned order at Annexure-3 it has been mentioned that the applicant <sup>reasonable</sup> was given opportunity to peruse the documents, but without availing that opportunity he submitted his explanation. In view of this it cannot be said that the applicant has been denied any reasonable opportunity. Besides the above, the applicant has not mentioned any other ground stating that the principle of natural justice has been violated in this case. In view of this, this contention of the applicant is held to be without any merit and the same is rejected.

6. For the purpose of considering the other grounds, it is necessary to refer to the charges levelled against the applicant. As earlier noted, there were three charges levelled against the applicant. The first charge is that the applicant's duty as Assistant in the Postal Store Depot is to despatch bags to different offices and to issue invoices for those

bags and to watch return of bags. But since his joining he has not prepared a single invoice for bags despatched. The second charge is that the applicant while working as Receipt, Despatch, Mail and Printing Assistant of P.S.D., Sambalpur from 1.7.1994 had maintained a general stock register of gunny bags upto 31.3.1998 and thereafter the stock register has not been maintained by him. The 3rd charge is that because of non-maintenance of stock register there has been shortage of 14,000 nos. of gunny bags resulting in substantial loss to the Department. The applicant has not annexed copy of explanation to this O.A. and therefore, it is not possible to know as to what explanation the applicant had submitted except in so far as the explanation of the applicant has been referred to by the disciplinary authority in his impugned order. We have carefully gone through the order of the disciplinary authority and we find no reason to hold that the findings of the disciplinary authority are based on no evidence. The applicant apparently stated in his application that besides him certain other clerks were in charge of the Store and action should be taken against them. Law is well settled that in a departmental proceedings the Tribunal cannot act as an appellate authority and/or reappraise the evidence and substitute its findings in place of findings arrived at by the disciplinary authority. After going through the statement of imputations and the impugned order, we find no reason to interfere in the impugned order of punishment.

7. In the appeal filed by the applicant which has been enclosed by the respondents in their counter the applicant has taken a stand that the punishment imposed on him comes under the definition of major penalty and this major penalty could not have been legally imposed on him when the proceedings

were initiated under Rule-16 of CCS(CCA) Rules. We have seen that the punishment is for reduction to lower stage of pay by next one stage below in the pay scale from Rs.5000 to Rs.4750/- for a period of two years without cumulative effect, with the stipulation that during the period of two years the applicant would not earn increments. In other words, after expiry of the two years the applicant's salary will become the same had the punishment not been imposed. Such a punishment comes under Sub-rule(iii)(a) of Rule-11 of CCS(CCA)Rules and is thus a minor penalty. This contention of the applicant is therefore held to be without any merit and the same is rejected.

In the result we hold that the applicant is not entitled to any of the reliefs prayed for. The application is held to be without any merit and the same is rejected, but without any order as to costs.

(G.NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN

B.K.SAHOO//