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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 447 OF 1998
Cuttack, this the 5th day of January 2004

Ajay Kumar Parida

.....

Applicant

Vrs.


Union of India and others

.....

Respondents

FOR INSTRUCTIONS

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


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN



CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 447 OF 1998
Cuttack, this the 5th day of January 2004

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIAL)

.....
Ajay Kumar Parida, aged about 24 years, son of Shyam Sundar Parida, At/PO :
Sundhol, Via Salchua, District Mayurbhanj

.....
Applicant

Advocates for the applicant

- M/s B.S.Tripathy & M.K.Rath

Vrs.

1. Union of India, represented through its Chief Postmaster General, Orissa Circle, At/PO Bhubaneswar, District Khurda.
2. Director, Postal Services, Bhubaneswar Region, Office of the Chief Postmaster General, At/PO Bhubaneswar, Dist.Khurda.
3. Superintendent of Post Offices, Mayurbhanj Division, Baripada 757 001, District Mayurbhanj.
4. Sub-Divisional Inspector (Postal), East Sub-Division, Baripada 757 001.

.....
Respondents

Advocate for the Respondents

- Mr.J.K.Nayak, ACGSC
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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

This Original Application has been filed by Shri Ajay Kumar Parida

seeking the following reliefs:

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- "a) To pass appropriate orders quashing the order of removal from service passed by Respondent No.4 vide Annexure b)
 - b) To pass appropriate orders directing the respondents to reinstate the applicant in service with full back wages and other consequential service benefits.
 - c) To pass such further order/orders as are deemed just and proper in the facts and circumstances of the case, and to allow the original application with costs."

2. The applicant, who was appointed as Extra Departmental Branch Post Master (for short, 'EDBPM'), Sundhol B.O., on 21.8.1989, was put off duty on 11.2.1995 pending inquiry against him under sub-rule (1) of Rule 9 of the Posts & Telegraphs Extra-Departmental Agents (Conduct & Service) Rules, 1964 (hereinafter referred to as "EDA (C&S) Rules"). The inquiry was held against him under the said Rule, the inquiring officer submitted his report on 27.10.1997, and the disciplinary authority passed his order on 5.2.1998 removing the applicant from service. The applicant preferred an appeal on 24.3.1998. The appellate authority considered the appeal and rejected the same ^{by} in his order dated 11.9.1998.

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3. The applicant is aggrieved on the following grounds:

- (i) The disciplinary authority passed his order imposing the penalty without taking into account the pleadings of the applicant as well as the evidence adduced by the witnesses in cross-examination;
- (ii) The Department failed to produce clinching evidence to prove the charges beyond reasonable doubt;
- (iii) The depositions made by S.Ws.2 and 3 disproved the charges;
- (iv) The applicant had carried out all transactions in good faith and even though any mistake was committed, that was not intentional or deliberate but due to compelling circumstances;
- (v) The appellate authority passed the order in a mechanical manner in as much as he failed to take into account the fact that the total financial irregularity committed by the applicant was within his security money of Rs.2000/- and that the applicant had credited all the amount into Government account.

4. The Respondents have opposed the Original Application by filing counter. They have stated that the applicant having been granted all



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reasonable opportunity to defend his case and all the charges having been proved beyond doubt in the inquiry and that the orders passed by the disciplinary authority as well as the appellate authority being speaking orders, there is no merit in the Original Application filed by the applicant.


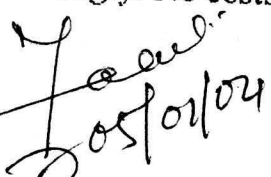
They have also submitted that in fact the applicant had admitted all the charges.

5. We have heard the learned counsel for both sides and have perused the records placed before us.

6. It is well settled in law that Courts/Tribunals have got limited role in dealing with matters connected with disciplinary proceedings. They can only intervene in case of infraction of procedure, denial of natural justice, or if the punishment imposed is shocking to the judicial conscience. In the instant case, none of these exceptional situation appears to exist. The applicant has sought for remiss on the grounds that he had credited the amount of financial irregularity, that the total amount of misappropriation by him was within the security amount that he had furnished, and that he had committed the above irregularity to meet the medical expenses of his wife. We are constrained to point out that if any one of these pleas is accepted by any Court/Tribunal, it will not only deny delivery of justice but will also end up in granting license to commit offence within a given

ceiling. To say the least, such a stand is preposterous and therefore, abhorrent to the rule of law.

7. In the above circumstances, this Original Application must fail. We order accordingly. No costs.



(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

AN/PS