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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH:CUTTACK

ORIGINAL APPLICATION NO. 56 OF 1998
Cuttack this the 21st day of March/2001

Okil Biswal ... Applicant(s)

-VERSUS-

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

(FOR INSTRUCTIONS)

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

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SONNATH SONI
VICE-CHAIRMAN

21.3.2001
(G.NARASIMHAM)
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 56 OF 1998
Cuttack this the 21st day of March/2001

CORAM:

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

...

Sri Okil Biswal, aged about 28 years,
Son of Sri S.Biswal, resident of Vill-Olla
Ex-E.D.B.P.M., Olla Branch Office in
account with Sakhigopal S.O. under Puri
Head Office,
Via - Sakhigopal, Dist - Puri

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Applicant

By the Advocates

M/s.R.N.Mohanty-2
N.Saw
C.R.Sahu

-VERSUS-

1. Union of India represented by the Secretary, Department of Posts, Dak Bhawan, Sansad Marg New Delhi-110 001
2. Director, Postal Services, Office of the Chief Post Master General, Orissa, Bhubaneswar-751001
3. Senior Superintendent of Posts, Puri Division, Puri - 752 001
4. Sri Bhagaban Sethi, Assistant Superintendent of Posts (H.Q.), Puri Division, Puri

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Respondents

By the Advocates

Mr.A.K.Bose, Sr.St.
Counsel (Res.1 to 3)

O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL): In this Original Application the applicant, an Extra Departmental Branch Post Master, attached to Olla Branch Office in account with Sakhigopal S.O. challenges the order dated 22.1.1997 passed by the disciplinary authority viz. Senior Superintendent of Post Offices, Puri Division, Puri, (Respondent No.3), removing him from service. It is strange that even though this application was filed on 21.1.1998, even though by order dated 8.8.1997 (Annexure-5), the appellate authority

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rejected his appeal dated 7.5.1997 (Annexure-4), no prayer has been made by the applicant for quashing this appellate order. Be that as it may, we presume that by over sight no prayer has been made by the applicant for quashing this appellate order, and on this presumption we would also examine the order of the appellate authority.

By Annexure-1 charges were framed against the applicant under two heads. The first one is that though as E.D.B.P.M. he received Mukhiguda M.O. No.3815 dated 2.7.1993 for Rs.1000/- on 8.7.1993 payable to one Smt. Narakhari Pradhan, did not make that payment to the payee, but showed the amount to have been paid on 13.7.1993, by putting an L.T.I. on the M.O. voucher, which was not that of the payee. The other charge is that though he received 26 un-registered postal articles for delivery, he did not deliver the same to the addressees. During surprise visit the Inspecting Officer detected this on 18.3.1993.

The applicant having denied the charges in his written statement, the matter was enquired. The Inquiring Officer submitted report and copy of the inquiry report was also supplied to the applicant in letter dated 22.4.1996 (Annexure-2) for representation, if any, within 15 days of the receipt of the letter. The Inquiring Officer held the charges proved. The applicant submitted his representation. The disciplinary authority, by order dated 22.1.1997 (Annexure-3) held the charges proved and imposed penalty of removal of the applicant from service. As earlier stated, his departmental appeal was dismissed by the appellate authority.

2. The grievance of the applicant is that with respect

to charge No.1, Smt. Narakhari Pradhan, the payee of the M.O. of Rs.1000/-, during inquiry, deposed that the amount was paid to her and the L.T.I. appearing on the M.O. voucher belongs to her. As regards charge No.2, applicant's contention is that officer inspecting had no jurisdiction to make such surprise inspection. It is not the case that principles of natural justice to his prejudice have been violated in conducting the proceedings.

3. We have carefully perused the inquiry report under Annexure-2, consisting of 16 sheets and also the order of the Disciplinary Authority, consisting of three sheets. Both these orders are exhaustive with the discussion of evidence on record.

Law is well settled that a Court/Tribunal cannot assume the role of ^{an} appellate authority and reappraise the evidence in the disciplinary proceedings unless the findings arrived at are arbitrary and based on no evidence and/or patently perverse and findings are such that no reasonable person can arrive at such a conclusion on the basis of the materials on record. After careful perusal of the report of the inquiring authority and the order of the ^{Disciplinary Authority and} Appellate Authority, we are of the view that the orders do not suffer from any legal infirmity.

With regard to contention advanced in respect of charge No.2, it is not for this Tribunal to adjudge whether the authority detecting the negligence/inaction of the applicant has jurisdiction or not. The fact remains that the applicant had not delivered those unregistered parcels, which amounts to negligence in duty.

In regard to charge No.1 it is true that before the

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enquiring authority, the lady complainant (payee) admitted that the L.T.I. appearing on the M.O. voucher belonged to her and she had received the amount. When questioned as to why she had preferred complaint alleging that she had not received the M.O. amount, she remained silent. One can take judicial notice that a person cannot identify his/her L.T.I. though he can identify his/her signature. In fact such ~~the~~ ^{on record} evidence reveals that alleged L.T.I. containing on the M.O. voucher along with the admitted L.T.I. of this lady were sent to the Handwriting Expert and the Handwriting Expert opined that L.T.I. appearing on the M.O. voucher does not belong to the L.T.I. of the payee. Thus, as rightly held by the Disciplinary Authority, during enquiry the applicant caught hold ^{of} this lady complainant to save him from the impending danger. Hence on the basis of the evidence of the ^{which} complaining lady, as earlier stated, is not consistent inasmuch as she remained silent when questioned as to why she could complain even after receiving the M.O., we are not inclined to unsettle the findings of the Disciplinary Authority, specially when the report of the Handwriting Expert is that the disputed L.T.I. appearing on the M.O. voucher does not belong to the complainant.

4. We have also carefully perused the order of the appellate authority along with the Memo of appeal filed by the applicant under Annexure-4. Even the appellate order is a reasoned and exhaustive one. We do not come across any legal infirmity in this order needing interference.

5. For the reasons discussed above, we do not see any merit in this O.A. which is accordingly dismissed. No costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
2010

20-2-2007
(G. NARASIMHAM)
MEMBER (JUDICIAL)