

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 416 OF 1999

Cuttack, this the 31st day of October, 2000

Sri Lokanath Kumbhar 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? No.

(G. NARASIMHAM)
MEMBE (JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN 31.10.2000

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CUTTACK BENCH, CUTTACK.

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CORAM:

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

Sri Lokanath Kumbhar,
aged about 30 years,
son of late Arjuna Kumbhar,
Vill/PO-Bankipali,
Via.Dungripali,
Dist.Bolangir - 767 023....

Applicant

Advocates for applicant - M/s P.V.Ramdas
P.V.B.Rao

Vrs.

1. Union of India, represented by the Chief Post Master General,Orissa Circle, Bhubaneswar-751 001.
2. The Director, Postal Services,
Sambalpur Regioin,
Sambalpur- 768 001.
3. Superintendent of Post Offices, Bolangir Division,
Bolangir-767 001.

..... Respondents

Advocate for respondents - M/s A.K.Bose
Sr.C.G.S.C.

ORDER

SOMNATH SOM, VICE-CHAIRMAN

In this Application the petitioner has
prayed for quashing the order at Annexure-5 removing him
from service and for a direction to respondent no.3,
Superintendent of Post Offices, Bolangir Division, to
reinstate him ins ervice with all consequential benefits.

2. The applicant's case is that while
working as EDBPM, Bankipali B.O., departmental proceeding
was initiated against him in memo dated 11.2.1994

(Annexure-1). There were five charges. On the applicant denying the charges in his written statement, inquiring officer and presenting officer were appointed. In the enquiry report at Annexure-2 the inquiring officer held all the charges as proved. Respondent no.3, the disciplinary authority, after considering the enquiry report as also the representation of the applicant on the enquiry report, passed the extreme penalty of removal from service in the impugned order at Annexure-5. The appeal filed by the applicant was rejected in order dated 14.6.1999 at Annexure-6. The applicant has stated that he was not given access to certain material documents on the ground that those are not relevant. He was thereby denied reasonable opportunity. He has also stated that Government Examiner of Questioned Document, Calcutta, had examined many of the questioned documents and given report. But he was not summoned as a witness thereby denying the opportunity to the applicant for cross-examining him and the applicant has been prejudiced. The third point taken is that his representation against the enquiry report has not been considered by the disciplinary authority.

S. Jam 3. The respondents in their counter opposing the prayer of the applicant have stated that all reasonable opportunity was given to the applicant in course of the enquiry and he was also represented by an assisting Government servant. The enquiry was held strictly in accordance with rules. They have further stated that documents of Government Examiner of Questioned Document are authenticated documents and opinion of GEQD was very clear regarding specimen signature of the depositor. Because of this, presence of GEQD was not

required for confirmation during the enquiry. They have also stated that the representation dated 11.3.1998 filed by the applicant on the enquiry report was carefully gone into by the disciplinary authority before awarding the punishment. On the above grounds, they have opposed the prayer of the applicant.

4. We have heard Shri P.V.Ramdas, the learned counsel for the petitioner and Shri A.K.Bose, the learned Senior StandingCounsel for the respondents and have also perused the records.

5. The applicant has mentioned in paragraph 5 (ii) of the OA that he was not given access to certain material documents on the ground that those are not relevant and thereby he was denied reasonable opportunity. Besides this bland assertion in the OA the applicant has not mentioned the documents which were actually asked for by him and how those are relevant. He has also not enclosed any letter written by him to the inquiring officer or the disciplinary authority asking for certain documents. In view of this, simply on his assertion in the OA that certain documents, the precise nature of which has not been specified by him, were denied to him cannot be accepted. This contention is accordingly rejected.

J. Sam

6. The second point urged by him is that the report of GEQD was taken into consideration by the inquiring officer, but GEQD was not examined in course of the enquiry and therefore the applicant did not have a chance to cross-examine the GEQD and he was denied reasonable opportunity. In support of his contention, the

learned counsel for the petitioner has relied on the decision of the Hon'ble Supreme Court in the case of S.Gopal Reddy v. State of Andhra Pradesh, 1996 AIR SCW 2803. We have perused this decision. In this case the Hon'ble Supreme Court in paragraph 27 of their judgment have stated that the evidence of an expert is a rather weak type of evidence and the Courts do not generally consider it as offering "conclusive" proof and, therefore, it is not safe to rely upon the same without seeking independent and reliable corroboration. In that case, certain letters written by the accused were proved to have been written by him on the basis of evidence of the handwriting expert as also the evidence of the father of the addressee of these letters who stated that he is familiar with the handwriting of the accused. The Hon'ble Supreme Court took note of the fact that handwriting expert mentioned that there were similarities indicating common authorship of the proved. The handwriting expert also mentioned that no definite opinion could be given on the basis of the present standards. The Hon'ble Supreme Court also held that the evidence of the father of the addressee of the letters suffered from serious inconsistencies. In the instant case, after due enquiry, the charges have been held as proved. In respect of the first charge, which relates to fraudulent withdrawal of money from Savings Bank Account of one Gangadhar Pradhan, the depositor's evidence is on record stating that he had not withdrawn any money, as has been shown by the applicant in his account. In respect of Article III of the charge the father of the depositor, who is a minor girl,

came and gave evidence supporting the Department's case. In view of this, it is clear that besides the evidence of expert witness, in this case there was corroborative evidence. Moreover, S.Gopal Reddy's case (supra) was a criminal appeal whereas the present case before us is a departmental proceeding. It is well settled that in departmental proceedings strict rules of evidence are not applicable. In view of this, it cannot be said that the inquiring officer has solely gone by the evidence of expert who has not been examined. We, therefore, hold that no prejudice has been caused to the applicant by non-examination of the expert during the enquiry proceedings. This contention is, therefore, rejected.

7. The third contention of the learned counsel for the petitioner is that the points urged by the applicant in his representation against the enquiry report have not been taken into consideration by the disciplinary authority. The representation of the applicant is at Annexure-4. We find from the order of the disciplinary authority that he has in detail noted and discussed the various stands taken by the applicant in his representation and therefore this contention is also held to be without any merit and is rejected.

8. In the result, therefore, the Original Application is held to be without any merit and is rejected. No costs.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
21/12/2010