

6

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 25 OF 2000
Cuttack, this the 13th day of August, 2001

Shri Chintamani Pradhan

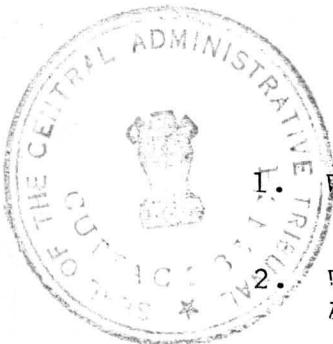
Applicant

Vrs.

Union of India and thers ...

Respondents

FOR INSTRUCTIONS



(G.NARASIMHAM)
MEMBER (JUDICIAL)

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.*

Commr. in Jm.
S. MATH SOONI
VICE-CHAIRMAN
13.8.2001

7

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CORAM:

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

.....
Shri Chintamani Pradhan, aged about 55 years, son of late
Nirakar Pradhan, At/PO-Dabarasingi, Via-Nuapada,
P..S-K.Nuagaon, Dist.Ganjam.... Applicant

Advocates for applicant - M/s S.K.Mohanty
S.P.Mohanty
P.K.Lenka
S.K.Das

Vrs.

1. Union of India, represented by its Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Senior Superintendent of Post Offices, Berhampur (Gm) Division, Berhampur-760 001.
3. Director of Postal Services, Office of the Post Master General, Berhampur Region, Berhampur-760 001.

..... Respondents

Advocates for respondent- Mr.J.K.Nayak
ACGSC

ORDER

SOMNATH SOM, VICE-CHAIRMAN

In this O.A. the petitioner has prayed for quashing the order dated 27.10.1998 (Annexure-6) dismissing him from service and the order dated 12.8.1999 (Annexure-8) rejecting his appeal.

SJm.
2. The case of the petitioner is that he was appointed as EDBPM, Dabarasingi B.O. on 27.2.1973. On 13.2.1998 departmental proceedings were initiated against him in conclusion of which he was dismissed from service and his appeal was also rejected. The applicant has challenged the report of the inquiring officer and the orders of the disciplinary authority and the appellate authority on various grounds mentioned in his OA. These will be referred to at the

time of considering the submissions of the learned counsel of both sides. Before doing that the charge against the applicant has to be noted. The sole charge against the applicant is that while he was working as EDBPM, Dabarasingi B.O. , he received Kandivali East M.O.No.757, dated 16.8.1997 for Rs.2000/- payable to Sri Arjuna Sethi of village Dabarasingi vide B.O.Slip dated 22.8.1997 from Nuapada S.O. He made necessary entries in the B.O.Journal in respect of the above M.O. on the same day. Thereafter he showed that the M.O. has been paid on 28.8.1997 to Sri Sethi although the Money Order was not really paid to Shri Sethi. He accounted for the same in the B.O. Accounts falsely.

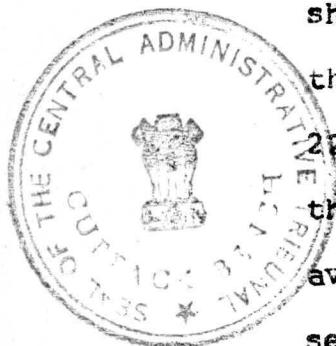
3. Before considering the submissions made by the learned counsel for the petitioner it has to be noted that in disciplinary proceedings the Tribunal does not act as an appellate authority and cannot reassess the evidence and substitute the findings arrived at by the inquiring officer and the disciplinary authority. The Tribunal can interfere if reasonable opportunity has not been given and if the principles of natural justice have been violated and if the findings are based on no evidence or are patently perverse. The submissions made by the learned counsel for the petitioner have to be considered in the context of the above well settled position of law.

4. We have heard Shri P.K.Lenka, the learned counsel for the petitioner and Shri J.K.Nayak, the learned Additional Standing Counsel for the respondents and have perused the record. The learned counsel for the petitioner has filed written note of submission which has also been taken note of.

5. The applicant has stated in his petition that he wanted the following documents:

- (i) Intimation Book of Dabarsingi B.O. from 22.8.1997 to 28.8.1997;
- (2) Complaint, if any, relating to Kandivali M.O. No.757, dated 16.8.1997 for Rs.2000/-; and
- (3) Diary of S.D.I.P dated 28.8.1997 and 29.8.1997.

The applicant has admitted that the first document was shown to him, but he did not exhibit the same as he found that the Intimation Book does not have the pages from 22.8.1997 to 27.8.1997. It is also stated by the applicant that the second document was disallowed. He has made no averment with regard to the third document. So far as the second document is concerned, the applicant has not stated how non-supply of this document has caused prejudice to him. In his requisition he has also not stated that a complaint actually exists with regard to the Money Order. He has stated that complaint "if any" should be supplied to him. In any case the payee of the M.O., one Arjun Sethi of the same village has been examined during enquiry and the applicant has got opportunity to cross-examine him. The applicant has also not stated how non-supply of Tour Diary of S.D.I.(P) has prejudiced his case. The inquiring officer in paragraph 1 of his report has mentioned that during the second sitting of enquiry on 13.5.1998 the applicant along with his A.G.S. inspected the documents and xerox copies of the documents were supplied to him. In view of this, we hold that the contention of the applicant that he has been prejudiced for non-supply of documents is without any merit.



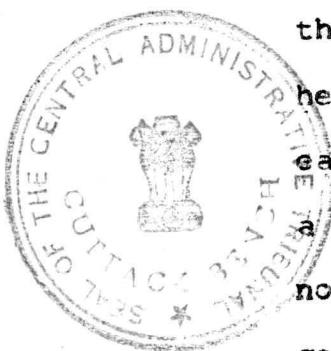
6. The second point urged by the learned counsel for the petitioner is that the disputed signature of the payee on the Money Order along with the specimen signature of payee Arjun Sethi, was sent to the Government Examiner of Questioned Document (G.E.Q.D) and his report at Annexure-3 was that the signature in the Money Order is not that of the actual payee. The applicant has made a grievance that during enquiry, the G.E.Q.D., who had given the opinion was not examined and thereby he was prejudiced. We are unable to accept this proposition on two grounds. Firstly, the disciplinary proceedings are not conducted strictly according to the requirements of Indian Evidence Act, and secondly, by non-examination of the handwriting expert the applicant has not been prejudiced because besides the opinion of the handwriting expert the inquiring officer has taken note of the evidence of the payee who has stated that the Money Order has not been received by him. This contention is held to be without any merit and is rejected.

7. The applicant had taken the stand that he has paid the Money Order to Arjun Sethi in the presence of one Mrugosen Pradhan as witness. Another person Prafulla Kumar Pradhan (DW 1) was also present at the time of actual payment to Arjun Sethi. The inquiring officer in his report has noted that during preliminary enquiry Mrugosen Pradhan had given in writing that at the time he put his signature as witness in the Money Order receipt, the signature of Arjun Sethi was already written there and he had not witnessed actual payment. In course of enquiry, he disowned the contents of his statement and stated that because of the threat by the Inspector, he had given the above statement.

S. Jom

The inquiring officer has disbelieved the evidence of Mrugosen Pradhan on the ground that he is a literate person and his earlier statement has been written out by him in his own hand. The evidence of D.W.1 produced by the applicant has also been disbelieved because he stated that on 28.8.1997, the alleged date of payment he had been to the Post Office to purchase Post Cards and he actually purchased two Cards. But it was later on found that actually there was no sale of Post Cards ^{on that day} in that post office. Moreover, even though D.W.1 remembered the date of payment, the names of the persons present in the Post Office and the particulars of currency notes paid to Arjun Sethi, he could not remember which day of the week it was. We have earlier noted that when the inquiring officer has come to a finding after taking into account the evidence, it is not for the Tribunal ~~to~~ to re-assess the evidence. After going through the enquiry report we find that the inquiring officer has examined all the evidence before him and ~~to~~ has come to a finding. It has also to be noted that the real payee Arjun Sethi consistently stated that he has not received the Money Order and his signature has been forged. In view of this, it cannot be said that the finding of the inquiring officer is based on no evidence.

JKM
8. Coming to the order of the disciplinary authority, we find that he has taken note of the evidence of the payee denying receipt of payment. He has also noted that the statement of the applicant that he intimated the payee through the EDDA to come and receive the payment has been denied by the EDDA during preliminary enquiry as also during examination before the inquiring officer. Considering



-6-

this, it is not possible to hold that the findings of the inquiring officer and the disciplinary authority are based on no evidence or are patently perverse. The appellate authority has passed a detailed order discussing each and every point raised by the applicant in his appeal petition. In view of the above, we find no infirmity in the finding of guilt arrived at by the departmental authorities.

9. As regards the punishment, it is seen that this is a case of forgery of Government record with a view to deprive a payee of the amount sent to him by Money Order. In view of this, the punishment of dismissal from service cannot be said to be so disproportionate as to shock the judicial conscience.

10. In view of our above discussions, we hold that the O.A. is without any merit and the same is rejected but without any order as to costs.

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(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
[28-200]

CAT/Cutt.B/1346 August, 2001/AN/PS