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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 275 OF 2000  
Cuttack, this the 08<sup>th</sup> day of July, 2004.

Kanhu Charan Jani. .... Applicant.

-Vs.-

Union of India & Ors. .... 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.

  
(B. N. SOM)  
VICE-CHAIRMAN

  
(MANORANJAN MOHANTY)  
MEMBER (JUDICIAL)  
08/07/04

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

O. A. NO. 275 of 2000:

PRESENT: The Hon'ble Mr. B. N. Som, Vice-Chairman  
The Hon'ble Mr. M. R. Mohanty, Member (J)

Kanhu Charan Jani. .... Applicant.  
-Versus-  
Union of India & Ors. .... Respondents.

Date of decision: 08<sup>th</sup> / JULY / 2004.

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL):

The Applicant (a Senior M. T. R. K (P) under erstwhile South Eastern Railway at Khurda Road Division) being aggrieved by the order under Annexure-5 dated 03.05.2000 of the Respondent No. 2 (for recovery of Rs. 82,300/- from his salary) has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985. It is the case of the Applicant that since this recovery has been ordered without following the principles of natural justice, the same is liable to be quashed.

2. It is to be noted here that the above said order of recovery under Annexure-5 dated 03.05.2000 was stayed by our order dated 12-05-2000.

3. Respondents have filed their counter stating therein that the Applicant being a Sr.MTRK was working (under the SR,SE(Elec.)Power/KUR was posted in the stores of Sr.section Engineer/Power/Khurda Road i.e. the then DEE/Power) as the custodian of Stores w.e.f. 04.04.1976, that he was promoted to the post of Sr.clerk (on adhoc basis) and was kept the charge of Stores by relinquishing one Shri B.Swain and that the duty of the Stock holder of the Store was to keep the accounts of the materials received and issued under his custody and to produce the same before the Inspecting Authority, whenever required, for maintenance and operation of train services and also for staff amenities and that the stock holder of the stores was to be held responsible for the shortage (and excess) and improper accounting ;which may lead to poor maintenance and operation of trains etc.It has been stated in the counter that during his tenure as a Senior Clerk(in charge of Stores), the Applicant failed to keep proper accounts between the ground balance and ledger balance of various items ;which were essential for operation of train services and, as during verification store materials to the tune of Rs.82,300/- was found short on account of Applicant, the Respondent No.2 had issued the letter under Annexure-5 dated 03.05.2000 with instruction for recovery of the said amount (of Rs.82,300/-) from the Applicant's salary and retirement dues.They have further averred in the counter that the Applicant had been given opportunity to explain the discrepancies;but he failed to submit any explanation and in the said premises,it has been

submitted by the Respondents that this Tribunal should not interfere with the impugned order of recovery.

4. Applicant, by filing a rejoinder, denied the specific stand (that though opportunity was given to the Applicant to explain the discrepancies, he failed to do so) of the Respondents.


5. We have heard learned counsel for both sides and on perusal of the materials placed on record, it is seen that before ordering recovery under Annexure-5, neither any Disciplinary proceedings was ever initiated against the Applicant nor he was given any opportunity to have his say/show cause on the alleged discrepancies. Respondents have also not filed any iota of evidence in their counter to show that the discrepancies had ever been pointed out (or communicated) to the Applicant earlier giving him any opportunity to have his say in the matter in support of their plea that the applicant was earlier pointed out about the discrepancies. Law is well settled in the case of K. I. SHEPHARD vs. UNION OF INDIA & ORS (reported in AIR 1988 SC 686) by Their Lordships of the Hon'ble Supreme Court of India that if an order is passed by the administrative authority affecting the interest of a Govt. servant, without giving him opportunity, the same is a nullity and is not sustainable in the eye of law. It is also an elementary principle of natural justice that no person should be condemned without hearing.

6. As the impugned order under Annexure-5 was passed without putting the Applicant in a disciplinary proceedings (or without giving any opportunity to the Applicant to have

his say on the alleged discrepancies/punishment) the same is not sustainable and is accordingly quashed.

7. As a result, this Original Application is allowed. No costs.

  
(B. N. SOM)  
VICE-CHAIRMAN

  
(MANO RANJAN MOHANTY)  
MEMBER (JUDL.)