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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 503 OF 2000
Cuttack, this the 19th day of March, 2002.

Bijaya Kumar Panda. Applicant.

vrs.

Union of India & Ors. Respondents.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? *Y*
2. Whether it be circulated to all the Benches of NO. the Central Administrative Tribunal or not?

See

(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

MS
(M. P. SINGH)
MEMBER (ADMINISTRATIVE)

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18

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 503 OF 2000.
Cuttack, this the 19th day of March, 2002.

CORAM:

THE HONOURABLE MR. M. P. SINGH, MEMBER (ADMINISTRATIVE)
AND
THE HONOURABLE MR. MANORANJAN MOHANTY, MEMBER (JUDL.).

..

Bijaya Kumar Panda (Ex-EDBPM),
(Mausuda Bazar Branch Office),
S/o. Late Madhusudan Panda,
Aged about 40 years,
At/PO: Mausudha Bazar, Dist. Bhadrak. Applicant.

By legal practitioner: M/s. Akhay Ku. Mishra,
J.K. Swain,
Advocates.

- Vrs. -

1. Union of India represented through Secretary, Posts, Govt. of India, New Delhi.
2. Chief Postmaster General, Orissa Circle, At/PO: Bhubaneswar, Dist. Khurda.
3. Director of Postal Services, Orissa Circle, Office of the Chief Postmaster General, Orissa, Bhubaneswar, Dist. Khurda.
4. Superintendent of Post Offices, Bhadrak Division, At/PO/Dist. Bhadrak. ... Respondents.

By legal practitioner: Mr. S. B. Jena,
Addl. Standing Counsel (Central).



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ORDER (ORAL)

MR. M. P. SINGH, MEMBER (ADMINISTRATIVE) :-

By filing this Original Application, the Applicant has prayed for the following reliefs:

*In the facts and circumstances, above the order of the Disciplinary Authority vide Annexure-4 and the order dt.1.5.2000 passed by the Appellate Authority vide Annexure-6 are liable to be set aside;

AND

Further this Hon'ble Tribunal may be graciously pleased to direct the Opp. parties to pay all the financial benefits to the applicant from the date of dismissal;

OR

Pass any other order/orders as this Hon'ble Tribunal may deem fit and proper in this case*.

2. The facts of this case are that the Applicant was working as Extra Departmental Branch Post Master Mousudha Branch Post Office. While working as such, he had proceeded departmentally. The following Articles of charges were levelled against him.:

*ARTICLE-I.

Shri Bijaya Kumar Panda while working as EDBPM, Masudhabazar in account with Motto SO during the period from 16-4-1987 to 10-3-1998 (F/N) on 15.6.98 showed Rohini M.O. No. 9712 dt. 3.6.98 for Rs.1000/- payable to Baladei Parida paid by forging the L.T.I. of real payee Baladei Parida and forging the signature of the identifier Srinath Parida on the paid voucher and accounted for the amount in Mousudha Bazar B.O. account on 15-6-98 and utilised the value of the MO of Rs.1000/- for his own purposes without paying the amount the payee. The acts of Sri Panda are violative under the provisions of Rule-34, Rule-109, Rule-112, Rule-174 and caption No. 14 "what a BPM should not do" of Rules for BOS and thereby the said Sri Panda committed grave misconduct.

By his above acts, the said Sri Panda has failed to maintain absolute integrity and devotion to duty and thereby violated the provision of Rule-17 of EDAs

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 (Conduct and Services) Rules, 1964.

ARTICLE-II.

The said Sri Panda while working as such during the aforesaid period on 29.6.1998, showed Rohini MO No. 321 dated 19.6.1998 for Rs.1000/- paid to Baladei Parida by forging the LTI of the payee Baladei Parida and by forging the signature of the identifier Sri Ramakanta Parida on the said paid voucher and accounted for the amount in Mousudhabazar BO account dt.29.6.98 without paying the amount to the payee and thus, utilised the amount for his own purposes. By resorting to such forgery payment of the aforesaid MO, Sri Panda acted in violation of the provisions of Rule-34, Rule-109, Rule-112 caption No.14 'what a BPM should not do' and Rule-174 of Rules for BOs and thereby the said Sri Panda committed grave misconduct.

By his above acts the said Sri Panda has failed to maintain absolute integrity and devotion to duty and thereby violated the provisions of Rule-17 of EDAs (Conduct and Services) Rules, 1964*.

3. An enquiry Officer was appointed to enquire into the charges. He submitted his report to the Disciplinary Authority holding the charges proved. On the basis of the findings of the Report of the I.O., the Disciplinary Authority passed the impugned order of punishment on 30th December, 1999 imposing the penalty of dismissal from service on the Applicant. The Applicant filed the appeal which was rejected by the Appellate Authority on 1.5.2000. Aggrieved by this, the Applicant has filed this Original Application claiming the aforesaid reliefs.

4. The main ground taken by the Applicant in this Original Application is that the evidence adduced by the prosecution is not corroborated to the facts stated by the witnesses examined on behalf of the prosecution.

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Rather there are lot of contradictions which were not accepted by the Disciplinary Authority as well as the Appellate Authority. According to the Applicant, the material witnesses have not been examined. Had they been examined, which could have been established the fact in favour of the Applicant and the points raised by the Applicant in his submission, have not been taken into consideration by the Disciplinary Authority as well as Appellate Authority while passing the impugned orders.

5. Respondents in their reply have stated that the Applicant was proceeded departmentally for misappropriation of funds. The Inquiring Officer enquired into the charges levelled against the Applicant and the charges were found proved. During the enquiry, all reasonable opportunity was given to the Applicant to defend his case. The offence committed by the charged official i.e. Applicant was very grave in nature. Since he had resorted to fraudulent payment of two money orders received in the name of an innocent and illiterate rural woman. By adopting such practice, the Applicant lost his integrity as well as tarnished the image of the Department and, therefore, the Disciplinary Authority considered the applicant unfit to be retained in service and the order of punishment of dismissal from service was passed. As such, it has been stated that the punishment imposed on the applicant is just and proper and the OA is liable to be dismissed.

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6. Heard learned counsel for both sides and perused the records.

7. We find that the Applicant has been charged for serious offences like misappropriation of Government money. The matter was duly enquired into as per the laid down procedure. During the enquiry, the Applicant was given full opportunity to defend his case and thus, principles of natural justice were fully complied with. The I.O. held the charges proved against the Applicant and the Disciplinary Authority passed the order of punishment of dismissal from service on the basis of the findings of the I.O., which was, also confirmed by the Appellate Authority in a reasoned and speaking order.

It is well settled law enunciated by the Hon'ble Apex Court in a plethora of judicial pronouncements that the Courts/Tribunals can not re-appreciate the evidence and also can not go into the quantum of punishment. In this case, we find that the charges are very grave and the punishment is not disproportionate to the misconduct. In this view of the matter, we find no reason or ground to interfere with the order of the Disciplinary Authority and the Appellate Authority.

8. In the result, therefore, the Original Application is dismissed. No costs.

Manoranjan Mohanty
(MANORANJAN MOHANTY) 19/03/2002
MEMBER (JUDICIAL)

MPS
(M. P. SINGH)
MEMBER (ADMINISTRATIVE)