

10

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 85 OF 2000  
Cuttack, this the 29<sup>th</sup> day of August, 2001

Narayan Dash ....

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)  
MEMBER (JUDICIAL)

S. Somnath S. Somnath  
(SOMNATH S. SOMNATH)  
VICE-CHAIRMAN  
29.8.2001

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 85 OF 2000  
Cuttack, this the 24th day of August, 2001

COURT:

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

.....  
Narayan Dash, aged about 49 years, son of late Jadumani Dash, resident of village Puran P.S/District-Jagatsinghpur, at present serving as Treasurer, Malkangiri Sub-Post Office, Malkangiri, P.O/Dist.Malkangiri

.....

Applicant

Advocates for applicant - M/s D.P.Das  
J.K.Panda  
S.K.Joshi

Vrs.

1. Union of India, represented through its Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Senior Superintendent of Post Offices, Jeypore Circle, District-Koraput.
3. Director of Postal Services, Berhampur, P.O-Berhampur, District-Ganjam....

Respondents

Advocate for respondents - Mr.J.K.Nayak  
ACGSC

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this O.A. the petitioner has prayed for quashing the order of punishment, dated 30.3.1999 (Annexure-2) stopping his next increment for three months without cumulative effect, passed at the conclusion of a minor penalty proceeding against him.

*SJM.*  
2. At the relevant time the applicant was working as Treasurer, Malkangiri Sub-Post Office, which was functioning as the Cash Office for Korukonda EDSO. The applicant had sent a remittance of Rs.4000/- to Korukonda EDSO on 5.3.1998. The allegation is that while sending the above remittance he did not follow the departmental rules

and instructions. Admittedly, when the cash bag was received at Korukonda EDSO, Rs.4000/- sent by the applicant was missing. The applicant has stated that one Mangal Dhakada to whom the bag was handed over for transport to Korukonda EDSO committed suicide when the loss of the cash was found. The applicant has stated that he has followed the rules and instructions scrupulously and the finding of the disciplinary authority holding him guilty of the alleged lapses is based on no evidence. His appeal has also been rejected in the order dated 12.8.1999 (Annexure-4).

 3. Respondents have filed counter opposing the prayer of the applicant, and the applicant has filed rejoinder. It is not necessary to refer to the averments made by the respondents in their counter and the applicant in his rejoinder because these will be taken note of while considering the submissions made by the learned counsel of both sides. We have heard Shri D.P.Das, the learned counsel for the petitioner and Shri J.K.Nayak, the learned Additional Standing Counsel for the respondents.

4. Before considering the submissions made by the learned counsel of both sides it is necessary to note that in disciplinary proceedings the Tribunal does not function as an appellate authority and cannot substitute its finding in place of the finding arrived at by the disciplinary authority. The Tribunal can interfere if reasonable opportunity has not been given to a delinquent officer or if principles of natural justice have been violated. Interference can also be done by the Tribunal if the findings of the disciplinary authority are based on no evidence or are patently perverse. The learned counsel for the petitioner has relied on the decision of the Hon'ble

Supreme Court in Kuldeep Singh v. Commissioner of Police, AIR 1999 SC 677. In that decision the Hon'ble Supreme Court have held that if the finding arrived at by the inquiring officer or the disciplinary authority is based on no evidence or is patently perverse, then the same should not be sustained. The submissions made by the learned counsel for the petitioner have to be examined in the context of the above well settled position of law.

5. In the O.A. and at the time of hearing no submission has been made that in course of the minor penalty proceedings reasonable opportunity was not given to the applicant or principles of natural justice have been violated. We find that the disciplinary authority has considered the explanation submitted by the applicant denying the allegations in detail. In view of this, it cannot be said that reasonable opportunity has been denied to the applicant.

6. The sole question remaining for consideration is whether the finding of the disciplinary authority is based on no evidence or is patently perverse. For considering this, the required method of sending cash from Accounts Office to Extra Departmental Post Office has to be noted. From the pleadings it appears that the cash is required to be put in a leather cash bag. The leather cash bag has to be put in a registered bag and the items put in the registered bag have to be listed out in the registered list. Then the registered bag with the cash bag and other registered items inside it and other items meant for despatch have to be put in "D" Bag. In the instant case the allegation is that even though the registered list was

*S. J. M.*

maintained, the cash bag was not put inside the registered bag but was straightaway put inside the "D" Bag which had a tear of 4½" long. The alleged lapse of the applicant is that he did not put the cash bag in the registered bag. As a matter of fact, no registered bag was sent. The second alleged lapse is that he did not note the tear of 4½" long in the "D" Bag. The applicant has stated that he had put the cash bag inside the registered bag. But this has not been accepted by the disciplinary authority who has taken note of the statement of EDSPM, Korukonda EDSO that no registered bag was actually sent inside "D" bag on 5.3.1998. The EDSPM, who is at the receiving end, has also stated that from Malkangiri S.O., the cash bag was being sent regularly in the "D" Bag without putting inside the registered bag. In view of this, the disciplinary authority has held that on the relevant date no registered bag was sent. Therefore, it cannot be said that the finding of the disciplinary authority is based on no evidence. We also find that the disciplinary authority and the appellate authority have considered the representation of the applicant in detail. We, therefore, hold that the finding of the disciplinary authority and the appellate authority cannot be said to be based on no evidence.

7. In the result, therefore, the O.A. is held to be without any merit and the same is rejected. No costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

*Somnath Som.*  
(SOMNATH SOM)  
29.8.2001  
VICE-CHAIRMAN

AN/PS