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CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH: CUTTACK.

Original Application No.293 OF 2001
Cuttack, this the 28th day of December, 2005.

BAISHNAB CHARAN NAYAK

APPLICANT

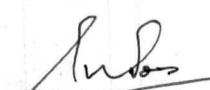
Versus

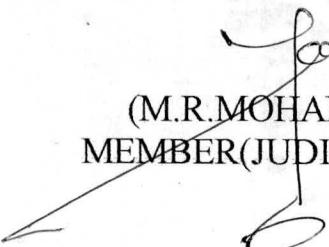
UNION OF INDIA & Ors.

RESPONDENTS

FOR INSTRUCTIONS

- n. Whether it be referred to the reporters or not? *yes*
2. Whether it be circulated to all the Benches of CAT or not? *yes*


(B.N. SOM)
VICE-CHAIRMAN


(M.R. MOHANTY)
MEMBER(JUDICIAL)

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Cuttack, this the 28th day of December,2005.**

CORAM:

**THE HON'BLE MR.B.N.SOM, VICE-CHAIRMAN
AND
THE HON'BLE MR.M.R.MOHANTY, MEMBER(JUDICIAL)**

Baishnab Charan Nayak,
Aged about 48 years,
S/o.Late Pranabandhu Nayak,
Working as BPM, SOSO BO,
At/Po- SOSO, Via-B.T.Pur,
.Dist.Keonjhar, Pin-756 115.

..... **APPLICANT.**

For the Applicant : M/s. D.N.Mishra,S.K.Panda,
S.Swain, Advocates.

VERSUS

1. Union of India, represented through its
Secretary,Department of Post,
Dk Bhaban,Parliament Street,
New Delhi.
2. Director Postal Service (H.Q),
Department of Post Office of
Chief Postmaster General Orissa Cadre,
Bhubaneswar- 751 001.
3. Supdt. of Post Offices,Bhadrak Division,Bhadrak.

..... **RESPONDENTS.**

For the Respondents: M/s. U.B.Mohapatra, SSC.



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ORDER

MR.M.R.MOHANTY, MEMBER(JUDICIAL):-

Applicant while working as Extra Departmental Branch Postmaster (in short EDBPM) in Soso Branch Post Office under Badahat Tilochanpur Sub Post Office of Bhadrak Postal Division was placed under 'off duty', in contemplation of a disciplinary proceedings, on 24.10.1997 and was served with a charge sheet under Annexure -A/1 dated 09-11-1998. Applicant submitted his reply and prayed therein that the charges are not sustainable and the same be dropped. Without considering his said grievance, the Respondent-Department conducted an enquiry, in gross violation of the principles of natural justice, and, ultimately, the Disciplinary Authority (by accepting the findings of the enquiry), imposed the punishment of removal from service under Annexure-A/4 dated 04-05-2000. Appeal of the Applicant under Annexure-A/5 dated 25-05-2000 against the said order of punishment of removal having been rejected under Annexure-A/6 dated 16-01-2001, he has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985 with prayers to quash the impugned order under Annexure-A/4 dated 04.05.2000 , Annexure-A/6 dated 16.1.2001 and to direct the Respondents to grant him all consequential service and financial benefits retrospectively.

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2. Respondents have filed their counter by stating therein that during the incumbency of the Applicant as EDBPM of Soso BO, the ASPOs(O/D) of Bhadrak Division, in order to carry out the annual inspection, visited the said BO on 23-10-1997; when the Applicant failed to produce cash and stamp balances of the BO for verification and, on the other hand he snatched away the Pass Books and one insured cover (which were found from his drawer) and scolded the ASPOs(O/D) rudely showing misbehaviour. It has been disclosed that, on the next day, on verification of records of the said BO it revealed that the Applicant was involved in retaining excess cash in the BO, non-accounting of unpaid letters received from account office, use of used-up stamps and not ensuring timely delivery/payment of accountable articles received in the BO; for which, after verification of the past conduct of the Applicant, the Disciplinary Authority, decided to proceed against the Applicant under Rule 8 of EDA(Conduct and Service) Rules, 1964 and, after he being placed off duty, charge sheet was served on the Applicant under Annexure-A/l dated 31-10-1998/09-11-1998. Reply of the Applicant having been considered, the matter was enquired into and, after giving adequate opportunity to the Applicant during the enquiry, order of punishment of removal from service was imposed; which was confirmed by the Appellate Authority. It has been stated by the Respondents that there being no violation of any of the Rules in the matter of conducting

the disciplinary proceedings that was initiated against him and, the principles of natural justice having scrupulously been followed, this Tribunal should not interfere in the matter.

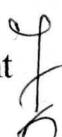
3. Heard Mr.D.N.Mishra, learned counsel appearing for the Applicant and Mr. U.B.Mohapatra, learned Senior Standing Counsel appearing for the Respondents and perused the materials placed on record.

4. Learned counsel appearing for the Applicant, in order to substantiate his pleas (of harassment to the Applicant) has submitted that although the Applicant was placed under off duty on 24.10.1997, the charge-sheet has only been served on him on 09.11.1998 and, as regards the merit of the proceedings, it has been submitted that the Inquiring Officer completed the enquiry hastily, that too without going through the records and without giving adequate opportunity to the Applicant; inasmuch as documents sought for by the Applicant could not be made available to him and thereby he was seriously prejudiced in defending his case. In support of his plea (that the report of IO is not free from bias), the Applicant had submitted that (a) although evidences were laid by the witnesses (that cash balance, although kept on the table, the SW 12 did not verify the same due to anger) was brushed aside by the IO to record a prove of the charge No.1; (b) that the charges (that the articles were withheld for four days and delay in delivery of letters) were bereft of

records; (c) that retention of cash beyond authorized balance was not supported by any documents; (d) that additional documents sought for during enquiry could not be produced; and (e) that although the Applicant has explained his stand vividly in his written statement of defence, the IO, without taking into consideration the stand of the Applicant, held the Applicant guilty; which is not sustainable in the eye of law.

5. On the other hand, learned Senior Standing Counsel appearing for the Respondents has argued that the Applicant was provided with all reasonable opportunities to prove his innocence in the matter; that the Applicant nominated one AGS to defend his case during the inquiry which was also allowed; that altogether 45 listed documents were exhibited by the prosecution during oral inquiry and 15 state witnesses were examined and cross examined in the inquiry; that available additional documents were produced before the inquiry as desired by defence; that the CO also did not produce any list of additional witnesses; that the IO commenced the inquiry on 19-01-1999 and completed the same on 08-01-2000; and that the enquiry was conducted in free and fair manner and there was no violation of the Rules or the principles of natural justice.

6. We have considered the submissions made by the parties and perused the materials placed on record. On perusal of records it is seen that there were 8 articles of charges framed against the Applicant

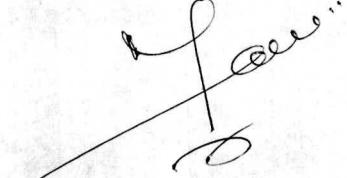


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and all the 8 Articles were proved by the IO basing on the records and evidences adduced before him. The Disciplinary Authority had also confirmed the view of the IO in a speaking order dealing with the case of the Applicant. Applicant has also not stated as to how by non supply of the documents/additional documents, he was prejudiced. It is also not the case of the Applicant that any documents were utilized against him without giving any opportunity to peruse the same or without supplying copies thereof. Mere allegation that additional documents could not be made available to him, cannot be a ground to interfere with the punishment order imposed in a disciplinary proceedings. It is also seen that the charges leveled against the Applicant are very serious in nature. Applicant has also not disclosed that the Officer, who had leveled such allegation, was in any way biased towards him. We have also found that not only the IO but also the Disciplinary Authority, while dealing with the matter, passed reasoned orders giving no scope for any judicial intervention in the matter. Law is also well settled that in disciplinary proceedings, the scope of interference of the Courts/Tribunals ~~are~~ very limited. We do not find any scope to interfere in the present proceedings; for the same having been done strictly in accordance with Rules after giving adequate reasonable opportunity to the Applicant.

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7. In the light of the discussions made above, we find no merit in this O.A. which stands dismissed; by leaving the parties to bear their own costs.


(B.N. SOM)
VICE-CHAIRMAN


(M.R. MOHANTY)
MEMBER(JUDICIAL)