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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

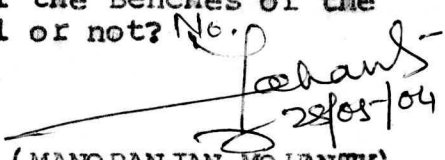
Original Application No. 298 of 2001
Cuttack, this the 28th day of May, 2004.

Brahmananda Barik. Applicant.
-Vrs.-
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)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O. A. No. 298 of 2001

Present: THE HON'BLE MR. B. N. SOM, VICE-CHAIRMAN
THE HON'BLE MR. M. R. MOHANTY, MEMBER (J).

Brahmananda Barik. ... Applicant.

Vs.

Union of India & Ors. ... Respondents.

For the Applicant : Mr. P. K. Mishra, Counsel.

for the Respondents: Mr. S. B. Jena, Counsel.

Date of decision: 28/05/2004.

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL):

Applicant, Brahmananda Barik, while working as Extra Departmental Sub Postmaster of Pastikudi Sub Post Office of Kesinga Sub Division of Kalahandi District of Orissa faced an order of removal (from service) under Annexure-1 dated 29.12.2000. His appeal being unsuccessful (under Annexure-3 dated 30.03.2001), the Applicant has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985 with prayers to quash the order of removal (Annexure-1); to set aside the order (Annexure-3) of rejection of his appeal and to issue a direction (to the Respondents) for his reinstatement.

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2. By filing a counter, the Respondents-Department have disclosed that Sri Brahmananda Barik was appointed as Extra-Departmental Sub Postmaster (in short EDSPM) of Pastikudi Sub Post Office on 05-01-1979 and, while working in the said post, he did not effect payment of money orders; which resulted in public complaints and that on receipt of complaint dated 24.10.1991 (regarding non-payment of money order) from one Sri Kapurchan Herna under Annexure-R/2); the Sub Division the S.D.I.P. of Kesinga Postal Division enquired into the matter and found that apart from the money order in question, other money orders (though received on 15.10.1991, 17.10.1991 and 21.10.1991 and though money was available as per records) were not paid to the payees. It has been disclosed in the counter that on further enquiry and verification of cash and stamps of Pastikudi S.O., it was noticed that the Applicant had kept shortage of Government cash amounting to Rs. 2104/- on 25.10.1991 and certain other irregularities like keeping excess cash showing fictitious liabilities on different dates during the month of October, 1991 were noticed and, therefore, the Applicant was proceeded against (under Rule-8 of the EDAs (Conduct and Service) Rules, 1964 vide Memo dated 17.8.1992) and upon regular enquiry into the matter (made as per the Rules) and after giving all opportunities to him to defend his case, the I.O. submitted

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his report on 4.6.93; a copy of which was also furnished to the Applicant(inviting his objections)and, after submission of his written statement of defence, the Disciplinary Authority (by taking all aspects of the matter into consideration)awarded the punishment of removal from service under Annexure-R/4. It has also been disclosed in the counter that the appeal preferred by the Applicant having been rejected,he approached this Tribunal in previous O.A.No.205 of 1994;which was disposed of on 23.10.2000 with direction to the Disciplinary Authority to pass a speaking order by keeping in mind the legal position, and that, on further consideration of the matter,the Disciplinary Authority,again passed the order of removal from service under Annexure-1;which was also a subject matter of appeal under Annexure-2 and that being unsuccessful in his appeal under Annexure-3, the Applicant has preferred the present Original Application for the second time.It has been stated by the Respondents that since the charges levelled against the Applicant were fully proved and adequate opportunity was provided to him during enquiry,there is no ground for interference in the order of punishment and that,therefore,this Original Application needs to be dismissed.

3. On completion of thepleadings the matter was brought on the list for final hearing on 16.2.2004;when, on the request of the learned counsel for the Applicant, the matter was adjourned to 23.2.2004.On 23.2.2004,the matter was again adjourned to 11.3.2004 due to the absence of the

learned Counsel for the Applicant. Again on 11.3.2004, the matter was adjourned (on the request of the Learned Counsel for the Applicant) to 29.3.2004 and on 29.3.2004 (on the request of the Applicant's counsel) the matter was adjourned to 05.04.2004; when the matter was kept heard in part to be taken up on 23.4.2004. Again the matter was heard and kept to 13.5.2004 for further hearing. On 23.5.2004, learned ASC submitted certain documents through further affidavit, after serving copies on the other side and in the said premises on the request of the learned counsel for the Applicant, the matter was adjourned to 24.5.2004; when learned counsel for the Applicant, again remained absent by filing accommodation Memo and, therefore, with the aid and assistance of Mr. Jena (Since this is a part heard matter and coming up in the list again and again) we perused the materials placed on record and concluded the hearing.

4. The position of law (that stands as on today) is that in a disciplinary proceedings the scope of interference by the Courts/Tribunals is limited. The interference in the matter of disciplinary proceedings against a Government servant is possible only (a) where the charges are based on no evidence; (b) where natural justice has not been given to the delinquent while recording the conclusion of guilt against a Govt. servant, (c) where the findings reached by IO/DA are based on no and records (d) where the punishment is disproportionate to the gravity of offence/charges. Neither in the Original


Application, nor during the hearing the Applicant was able to canvass what are the mistakes committed by the Respondents in the proceedings initiated against him warranting interference of this Tribunal; except saying that the punishment is disproportionate. Rather, Lt. ASC, by filing further Affidavit on 09.05.2004, has drawn our attention that the Applicant had admitted the charge No.1 with regard to misappropriation of money ; and so far as charge no.2 because of his denial, the matter was enquired into and it was found that the Applicant is also guilty of the said charge.

5. We would like to note here that Courts/ Tribunals are not expected to encourage injustice/breach of trust committed by Govt. servant and that common people of the nation have their faith on Govt. servants. Therefore, they owe onerous duty and responsibility to maintain absolute integrity, leaving no room for doubt. It is not a question of quantum of money misappropriated. It is a question of faith/trust/responsibility/integrity of the applicant. The Applicant was required to discharge his duty within the four corners of the disciplines framed. Since the Applicant in this case failed to do so, it was rightly held by the Disciplinary Authority that he is not a fit person to continue in service. We must go on record to say that misappropriation of public money by a Postmaster is a grave offence and requires deterrent punishment; which has rightly been imposed in this case. In the result, we find

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no merit in this Original Application which is
accordingly rejected.No costs.


(B. N. SOM)
VICE-CHAIRMAN


28/05/04
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)