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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 945 OF 2004  
CUTTACK, THIS THE 7<sup>th</sup> DAY OF October, 2005

Hrushikesh Pradhan.....APPLICANT

V S

Union of India & others .....RESPONDENTS

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? Yes

  
(B.N. SOM )  
VICE-CHAIRMAN

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ORIGINAL APPLICATION NO. 945 OF 2004  
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CORAM:

.....  
HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

.....  
Shri Hrushikesh Pradhan, aged about 53 years, Son of Surendra Pradhan, at present working as Asst. Supdt. of Post Offices, Balasore Division, Balasore, Dist-Balasore.

.....Applicant.

Advocate(s) for the Applicant - M/s. T.Rath, S.K.Jena.

VERSUS

1. Union of India, represented through the Chief Postmaster General, Orissa Circle, Bhubaneswar, At/P.O.-Bhubaneswar, Dist. Khurda-751001.
2. Director of Postal Services, Sambalpur Region, Sambalpur-768001.
3. Sr. Supdt. of Post Offices, Sundargarh Division, At/PO/Dist. Sundargarh.
4. Supdt. of Post Offices, Dhenkanal division, At/PO/Dist. Dhenkanal.
5. S.D.I.(P), Talcher Postal Subdivision, Dhenkanal Division, PO/Dist. Dhenkanal.
6. Supdt. of Post Officers, Balasore Division, At/PO/Dist. Balasore.

.....Respondents

Advocate(s) for the Respondents - Mr U.B.Mohapatra (For R-1to6, Sr.SC)

## ORDER

### SHRI B.N.SOM, VICE-CHAIRMAN:

Shri Hrushikesh Pradhan, at present working as Assistant Superintendent of Post Officers, Balasore Division, has filed this O.A. being aggrieved by the orders dated 25.2.04 passed by the Superintendent of Post Offices, Respondent No.3, and order dated 20.9.04 passed by the Director of Postal Services, Respondent No.2; imposing punishment of recovery of the amount of loss alleged to have been sustained by the Respondent Department.

2. The applicant has assailed the said orders on the ground that Respondent No.3 while framing the charges under Annexure-A/2 was not sure whether the applicant had prepared any gradation list of ED Agents or had failed to prepare the same properly, and, therefore, the charge memo was vague and unsatisfactory, and hence liable to be quashed. Further, that the said Respondent No.3 is without jurisdiction in the matter of imposing the said punishment on the applicant, as the applicant belongs to Group-B cadre. Thirdly, that the allegation brought against the applicant concerns alleged non preparation of seniority list in terms of DG Post letter No. 10/9/82-Pen, dated 28.6.82 and such an act of omission, even if accepted, can not be called a misconduct. In support of his argument he has relied on the decision of this Tribunal in O.A.No. 178/04. Finally, he has submitted that although several persons were held responsible for the failure to maintain seniority list of ED Agents in terms of DG Post instruction referred

to earlier, the quantum of punishment meted out to his successor was one of 'Censure' only. By varying punishment between two officials, equally held responsible for the acts of omissions and commission, the Respondents have utterly failed to be fair and just in their conduct.

3. The Respondents, on the other hand, by filing a detailed reply have opposed the application. They have submitted that the legal objections raised by the applicant are not tenable in the first instance. They have, however, submitted that the allegations were clearly spelt out in the imputation of misconduct. The charge in Article No.1 relates to his failure to maintain seniority list of ED Officials by incorporating correct date of birth in terms of DG Posts letter dated 26.6.82 which resulted in retention of one Shri Khetrabasi Behera for over six years after his superannuation and in Article No.2 of the statement of imputation, they have mentioned that because of him, one Shri Sadasiv Nayak had to be retained in service for over two years after superannuation.

4. I have heard the Ld. Counsel for both the parties and have perused the records placed before me.

5. In a disciplinary case, the scope of judicial review is very limited. If the disciplinary proceedings have been carried out following the rules and there is no denial of natural justice, Court/Tribunal cannot interfere in the matter. The present case could have been assailed, had the allegation or the charges framed against the applicant were found to be vague or unspecific (relying on the decision of the Transport Commissioner vs. 3

A.Radhakrishna Moorthy, 1995(1) SCC 332). However, on perusal of the Articles of charges, I find no merit in this allegation. I also observe that the order passed by the disciplinary authority was a detailed and reasoned one; taking into consideration the written representation submitted by the applicant dated 29.3.03 after receipt of the memo of charges. The order of the appellate authority had also taken into account all the objections raised by the applicant in his appeal and had passed a reasoned order, and, therefore, the same is not amenable to challenge.

6. However, I would like to observe that the Disciplinary Authority had imposed penalty of recovery of Rs. 1,83,567/- from the pay and allowances of the applicant on the ground that because of his failure to maintain seniority list of ED Officials, two ED Agents had to be retained in service, one for over a period of 2 years and another over 6 years. From the perusal of the order of the disciplinary authority, it is not clear whether the Department had incurred a liability of Rs. 1,83,567/- on account of payment of pay and allowances for those periods. Further, the appellate authority in his order-dated 20.9.04 also did not clarify this point as to how the liability of Rs. 1,83,567/- was worked out or what was the rational for determining liability to the extent of Rs. 1,83,567/- to be recovered from the applicant. He, however, observed that the applicant can not be held solely responsible for the over-stayal of two GDS officials as mentioned in the memo of charges and that the predecessors and successors of the applicant are also responsible for the over-stayal of these two officials. He, therefore, reduced the amount of recovery from Rs. 1,83,567/- to that of Rs. 60,000/-. However, he also did not disclose as to how many officers were responsible for not

abiding by the instructions of DG Posts referred to in the charge memo. That apart, it is also to be mentioned here that the amount of Rs. 1,83,567/- can not be treated as a loss sustained by the exchequer by way of payment of pay and allowances to the two GDS, one who was retained for more than 6 years and another who was retained for more than 2 years. Although, there is no doubt that the laxity or carelessness of the applicant tantamount to lack of devotion to duty or dereliction of duty, which is breach of Conduct Rules but the allegation of loss sustained appears to be misconceived on the ground that pay and allowances were paid to those officials because they had actually worked in their official positions during the period of overstayal.

7. It can not be the case of the Respondents that because of the lack of devotion to duty or dereliction of duty on the part of the applicant, the State has incurred an extra expenditure to the tune of Rs. 1,83,567. The aforesaid GDSs, namely Shri Khetrabasi Behera and Sadasiv Nayak, had worked beyond their age of superannuation and that is why they were paid monthly TRCA. It is because of the failure of the concerned Sub-Divisional Inspectors, like the applicant in this case, the Department had to employ those officials beyond the age of superannuation. They have, understandably, taken serious view of the dereliction of duty of the concerned officials. They are within their rights to take action under the Conduct Rules for the failure of the concerned officials but imposition of the penalty of recovery of loss does not appear to be apt because the State has not sustained any loss. State had to face embarrassment for retention of officials beyond the age of superannuation and other adverse effects in administration, but not financial loss.

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8. Having regard to the above facts of the case, I hold that the decision of the disciplinary authority/appellate authority to recover any amount for making good of loss sustained by the Department is without logic. I, therefore, remand the case to the disciplinary authority for reviewing the decision of imposition of recovery of any amount from the applicant under the CCS (CCA) Rules 1965. I would also like to refer here to the letter of DG Post No. 40/9/82-Pen, dated 28.6.82 wherein it was instructed that "each case of such irregular retention should be investigated and responsibility fixed." Accordingly the disciplinary authority should fix responsibility and take such action as provided under the rules for such dereliction of duty and such action should not necessarily result in recovery of any amount from the delinquent official unless it can be proved that the Government has sustained loss because of overstayal of the GDSSs.

9. With the above orders, this O.A. is disposed of. No costs.



(B.N. SOM)  
VICE-CHAIRMAN

KUMAR