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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 1146 OF 2002
Cuttack this the 17th day of Dec. 2004

Prabodha Kumar Sahoo ... Applicant(s)

- VERSUS -

Union of India & Ors. ... Respondent(s)

FOR INSTRUCTIONS

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

17/12/07

(M.R. MOHANTY)
MEMBER (JUDICIAL)

(B.N. SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.1146 OF 2002
Cuttack this the 17th day of Dec. 2004

CORAM:

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

...

Prabodha Kumar Sahoo, aged about 45 years,
S/o. Dhanamali Sahoo, At/PO-Keredi,
Via-Gumagarh, Dist-Phulbani

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Applicant

By the Advocates

M/s.D.P.Dhalasamant
D.K.Mohanty

- VERSUS -

1. Union of India represented through its
Director General of Posts, Dak Bhawan,
New Delhi-110 001
2. Chief Post Master General, Orissa Circle
Bhubaneswar, District-Khurda-1
3. Director of Postal Services, Berhampur
Region, Ganjam
4. Superintendent of Post Offices, Phulbani
Division, At/PO/Dist-Phulbani

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Respondents

By the Advocates

Mr.B.Dash, A.S.C.

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O R D E R

MR.B.N.SOM, VICE-CHAIRMAN: Applicant, Shri Prabodh Kumar Sahoo has filed this Original Application praying for quashing the order of punishment dated 31.3.2000 vide Annexure-5 removing him from service as well as the order of rejection of his appeal dated 31.7.2000 vide Annexure-7. He has also prayed for direction to be issued to the Respondents-Department to reinstate him forthwith in service with consequential service benefits.

2. The facts of the case in a nut shell are that the applicant was charge-sheeted under Rule-8 of E.D.As (Conduct & Service) Rules, 1964, for his failure to

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account for a Savings Bank deposit in the Account of the Post Office, keeping excess cash with him on many occasions during the months of March to April, 1997 and November, 1998 and for keeping money orders unpaid inspite of having adequate cash in the post office for that purpose. Although the applicant had in his written statement, after receipt of the charge-sheet, admitted the charges and begged to be excused, the Disciplinary Authority (in short D.A.) appointed an Inquiring Officer (in short I.O.), who conducted inquiry against him. During inquiry held on 10.2.2000, the applicant, without taking any assistance had submitted before the Inquiry Officer not to make any further inquiry on the ground that he would commit no mischief in future and again submitted that he might be pardoned. Thereupon, the I.O. without causing any detailed inquiry into the charges, submitted his report by stating that the charges against the applicant had been found proved on the basis of the submissions made by him. The inquiry report was forwarded to the applicant by the D.A. giving him time to submit reply on that report, which he did submit on 8.3.2000, when again he prayed that he might be granted pardon. The D.A., however, passed an order dated 31.3.2000 vide Annexure-5 removing the applicant from service, against which his appeal preferred to the appellate authority was rejected vide his order dated 31.7.2000 (Annexure-7). The applicant has now approached the Tribunal assailing the report of the I.O. on the ground that as per the provision made in CCS(CCA) Rules, the I.O. had no authority

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to dispense with the detailed inquiry. His representation dated 11.4.1999 replying to the charge-memo, his submission before the I.O. on 10.2.2000 and his representation dated 8.3.2000 could not be called admission in terms of Section 17 of the Evidence Act to hold that the admission made by him was conclusive.

3. The further plea taken in the O.A. is that during the inquiry, he was made to believe that if he would accept the allegations, he would be set free from the charges. It has been submitted by the applicant that he believed to be true whatever he was told, not being aware that such suggestions were made with some ulterior motive. He has, therefore, assailed that the disciplinary proceeding is vitiated on the ground that the inquiry was not conducted in terms of the procedure laid down in this regard in the CCS(CCA)Rules.

4. The Respondents in their counter have submitted that the applicant had all along admitted the charges levelled against him in clear and unequivocal term. They have denied the allegation that the applicant was led to believe by the prosecution side that should he admit the charges, he would be let off. The Respondents have also submitted that during the inquiry, the applicant admitted the articles of charges and on the sitting of the inquiry on 10.2.2000, he asked the I.O. to close the inquiry. It is the stand of the Respondents that the I.O. had observed all the prescribed rules of the Department in concluding the inquiry in presence of the applicant and the P.O. In these circumstances, the Respondents have opposed the O.A.

being not tenable and have prayed for dismissal of the same.

5. We have heard the learned counsel of both the sides and ^{have} perused the materials adduced before us.

6. The learned counsel for the applicant has drawn our attention to Rule-14(5) of CCS(CCA) Rules and stated that the I.O. did not follow the procedure laid down in the said Rule in conducting the inquiry. Relying on the provisions of Rule-14(5)(a) of the said Rules, the learned counsel for the applicant submitted that even if the articles of charges were admitted by the applicant in his written statement of defence, the I.O. was duty bound to record his findings on each of the charges after taking such evidence as he thought fit and thereafter was to proceed in the manner as laid down in Rule-15.

. Mere reading of the report of the I.O. would reveal that he closed the inquiry on the ground that the charges had been admitted by the applicant. In support of his contentions, the learned counsel for the applicant brought to our notice the decision rendered by Jaipur Bench of this Tribunal in the case of Man Chand Bajoria v. Union of India & Ors. (in O.A.No.363/96 - disposed of on 14.9.2001) and submitted that in a departmental inquiry admission of guilt by the Govt. servant can be used to corroborate independent evidence to prove the charge against the charged official. In the case of Man Chand Bajoria(supra) no inquiry officer was appointed nor any inquiry of any kind was conducted, no evidence was recorded and the admission of guilt by the applicant

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as per Section 17 of the Evidence Act, did not establish the fact that it was clear, unequivocal, precise and unambiguous. It was because of these lacunae in the departmental proceeding that their Lordships quashed the order of the D.A. by virtue of which the applicant was dismissed from service and liberty was granted to the Respondents therein to hold departmental inquiry again and thereafter pass appropriate orders.

7. The learned counsel for the Respondents argued that in the instant case, the applicant had repeatedly admitted his guilt. It is also noted in the inquiry report that it is the applicant, who had requested the I.O. in writing not to proceed further with the inquiry as he had, without any reservation, admitted his guilt. In the circumstances, the plea taken by the applicant in the O.A. that his representations did not come under the definition of 'admission' as set out under Section 17 of the Evidence Act and that the I.O. by not recording his findings on each of the charges had violated the provisions of Rule 14(5)(a) are afterthoughts. He urged before us that the applicant was raising a hypertechnical issue only. But the fact remains that he had through his repeated representations sought pardon from the D.A.

8. We have carefully considered the rival submissions made at the Bar. Undisputedly the word 'admission' has not been defined in the CCS(CCA) Rules and that admission as described under Section 17 of the Evidence Act ~~is to~~ means: a clear, unequivocal, precise and unambiguous statement. We have, therefore, carefully gone through

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the representation submitted by the applicant vide Annexure-2 (on receipt of the charge memo), the report of the I.O. vide Annexure-4 and the representation made to the appellate authority. We have no hesitation to hold that his representation dated 4.11.1999 (Annexure-2) was clear and unambiguous admission of all the charges. To make it more conspicuous, the applicant ^{had gone} ~~went~~ to the extent by submitting as under :

"...I have this much of request with tearful eyes to kindly excuse me. In future I will never commit such type of mistake and negligent even in my life. This a oath before you and also before the Lord Jagannath"

9. The applicant again admitted his guilt before the I.O. and the I.O. has stated that the applicant had made a request in writing not to make any further inquiry into the matter. He has not challenged this part of the report of the I.O. in any of his representations nor has he made any such allegation in the O.A. From this we are unable to accede to the plea of the applicant that his representation dated 4.11.1999 and the submission before the I.O. could not be taken as admission under Section 17 of the Evidence Act. We are also of the view that the case of Man Chand Bajoria (supra) as relied on by the learned counsel for the applicant is not of much help, because, in that case, no Inquiry Officer had been appointed nor inquiry of any kind was conducted. In the instant case, the I.O. had been appointed, who held regular sittings and in the first sitting itself, the charged official (applicant herein) after admission of the guilt also made a submission in writing to forgo

13

further inquiry. In the circumstances, we are unable to persuade ourselves to accede to the contention of the learned counsel for the applicant that the procedure as laid down under Rule-14(5) (a) of CCS(CCA) Rules was not followed. Even if it was not followed to its logical end, but for that the applicant is squarely responsible, because, it has not been disputed by him that he did make a representation in writing to the I.O. not to proceed any further with the inquiry. In the circumstances, we do not feel inclined to hold that the disciplinary proceeding against the applicant was in any way vitiated.

10. In the conspectus of the matter as discussed above, we are of the view that the applicant has not been able to make out a case for any of the reliefs prayed for by him. In the circumstances, the O.A. is dismissed, leaving the parties to bear their own costs.

10/12/04
(M.R. MOHANTY)
MEMBER (JUDICIAL)

B.N. SOM
(B.N. SOM)
VICE-CHAIRMAN

BJY