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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A.NO. 1199 OF 2002
Cuttack, this the 15th day of February, 2005

Sri Dillip Kumar Behera

.....

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?

15/02/05
(M.R. MOHANTY)
JUDICIAL MEMBER

[Signature]
(B.N. SOM)
VICE-CHAIRMAN

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CUTTACK BENCH, CUTTACK**

O.A.NO. 1199 OF 2002
Cuttack, this the 15th day of February, 2005

CORAM:
HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI M.R.MOHANTY, JUDICIAL MEMBER
.....

Dillip Kumar Behera, aged about 34 years, At-Town Hall
Road, P.O. Telenga Bazar, Cuttack-9, Town/Dist.Cuttack

..... Applicant

Advocate for the applicant - Mr.D.P.Dhalsamant

Vrs.

1. Union of India, service through Director General,
Department of Posts, Government of India, New Delhi 110
001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar 1,
Pin 751 001, District Khurda.
3. Director, Postal Services, Office of the Chief Post Master
General, Orissa Circle, Bhubaneswar.
4. Senior Superintendent of Post Offices, Cuttack City
Division, Cuttack, Town/Dist. Cuttack, Pin 753001

..... Respondents

Advocate for Respondents

-Mr.U.B.Mohapatra,
Sr.CGSC

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

In this Original Application, applicant Dilip Kumar Behera has prayed for the following reliefs:

- "8.1 That the order dated 22.4.2002 (Annexure-6) and order dated 14.2.2003 (Annexure 7/A) be quashed.
- 8.2 That the applicant be reinstated forthwith with consequential benefit.
- 8.3 That the cost of the application be granted.
- 8.4 That any other relief as deemed fit and proper in the circumstances of the case be granted."

2. The applicant was dismissed from service on conclusion of a disciplinary proceeding initiated against him under Rule 14 of CCS (CCA) Rules, 1965 on the allegation that he had secured appointment as Postal Assistant under direct recruitment quota by filing a forged mark-sheet of +2 Higher Secondary Examination held by the Council of Higher Secondary Education, Orissa ('C.H.S.E., Orissa' in short). The Respondents had alleged that he had filed the mark-sheet, purported to be issued by the Principal, Ravanshaw College, Cuttack, bearing



Roll No.0146-506 showing aggregate marks as 534, out of total of 900 marks, which, on verification carried out by the appointing authority, was found to be fictitious as the applicant had secured 344 marks. A detailed enquiry was held under the rules where he was given reasonable opportunity to defend his case. The Inquiry Officer submitted his report finding the allegation of producing forged mark-sheet as proved although he held that other charges were not proved.

3. The applicant has assailed the punishment order on the grounds that the Inquiry Officer had acted in biased manner, that the Disciplinary Authority tried to fill up the lacunae in the evidence, and that the Inquiry Officer as well as the Disciplinary Authority grossly failed to appreciate that the attested copy of the mark-sheet of Higher Secondary Examination of Council of Higher Secondary Education, Orissa, Bhubaneswar, was issued by the Principal, Ravanshaw College, Cuttack, who did depose to this effect during the enquiry and therefore, the allegation that the applicant had produced fake certificate could not hold good. On the other hand, the letter of the C.H.S.E., Orissa, Bhubaneswar, was never produced during the enquiry though it was asked for by the applicant as additional document, which was not allowed by the Inquiry Officer, on the pretext that it was

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not available. Non-production of the document had seriously prejudiced the applicant in defending his case effectively. He has also submitted that the Disciplinary Authority had formed his opinion to proceed against the applicant without sufficient documentary evidence in his possession.

4. The Respondents have contested the Original Application by filing a detailed counter. They have, in the counter, denied that they had violated any of the provisions of rules concerning conduct of disciplinary proceedings. They have submitted that the Disciplinary Authority had decided the matter against the applicant keeping in view the various facts and circumstances connected with the offence committed by him. The allegation against the applicant has been proved with reference to the documents produced as evidence during the enquiry.

5. We have heard the learned counsel for both sides and have perused the records placed before us.

6. The sole point in dispute in this case is, whether on the ground that the applicant had submitted a mark-sheet showing that he had obtained 534 marks in the Higher Secondary Examination, which later on was found to be false, as it was

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disclosed by the C.H.S.E., Orissa, that he had obtained only 344 marks, the Respondents were within their legal rights to dispense with his service. The plea taken by the applicant is that he had produced the mark-sheet issued by the Principal, Ravanshaw College, Cuttack, which disclosed that he had secured 534 out of 900 marks in Higher Secondary Education. This mark-sheet cannot be called a forged one because the issuer of this mark-sheet, i.e., Principal, Ravanshaw College, Cuttack, had appeared as a witness before the Inquiry Officer and had confirmed that it is he who had issued the mark-sheet. It is not disputed that the authority who had issued the mark-sheet showing that the applicant had obtained an aggregate of 534 out of total marks of 900 had confirmed that document in the enquiry. But point to be noted here is, whether the Principal, Ravanshaw College, Cuttack, was the competent authority to certify about performance of a candidate in the Higher Secondary Examination. The Higher Secondary Examination is conducted by C.H.S.E., Orissa, which intimates the marks obtained by the candidates to the respective colleges which in turn issue mark-sheets to the candidates. In case of any doubt, the genuineness of the marks can only be verified by referring the matter to the C.H.S.E., Orissa. In this case, the Respondents have submitted that for verification of the



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genuineness of the marks obtained by the applicant in the Higher Secondary Education, they had referred the matter to the C.H.S.E., Orissa, which by their letter 9387/EC-1-32/96/CHSE(O), dated 22.6.2000, informed Respondent No.4, the appointing authority, that on verification of available records, they have ascertained that the Xerox copy of the mark-sheet supposed to have been issued in favour of the applicant bearing Roll No. 0146C506/Regn.No.33649/83 is a forged one. They also thereafter gave the details of the marks obtained by the applicant in the said examination. The said document was placed before the Inquiry Officer and the document was proved by the Controller of Examinations, i.e., the issuing authority of the C.H.S.E., Orissa, when the applicant got an opportunity to cross-examine the said authority. It is not the case of the applicant that during cross-examination, the Controller of Examinations had retraced his stand or that he was able to show that his marks in that examination were actually 534 and not 344. In the circumstances, we have no hesitation to hold that the applicant has miserably failed to prove that the Xerox copy of the mark-sheet submitted by him for obtaining employment under Respondent No.4 was a genuine one. It has been disclosed by the Respondents that once it was found that the applicant had actually obtained 344

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marks out of 900 in 2nd Higher Secondary Examination, 1985, his name could not find place in the merit list and therefore, the employment offered to him had to be withdrawn. The argument of the applicant that the allegation that he had produced forged mark-sheet is false, as the Principal, Ravanshaw College, Cuttack had himself appeared before the Inquiry Officer to confirm that it is he who had issued the certificate, does not help him much except to possibly save him from other actions under law, but definitely he cannot have any right to hold any appointment under Respondent No.4 as his performance in 2nd Higher Secondary Examination, 1985 was much below the bench-mark meant for selection of candidates on merit from outside quota.

7. In the conspectus of the facts of the case, we see no merit in this Original Application which is accordingly dismissed. No costs.


(M.R. MOHANTY)
JUDICIAL MEMBER

AN/PS


(B.N. SOM)
VICE-CHAIRMAN