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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 530 of 2008

Cuttack, this the 23rd day of February, 2012


P.S.N.Patra Applicant

-v-

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not?
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not?


(C.R. MOHAPATRA)
Member (Admn.)


(A.K. PATNAIK)
Member (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.530 OF 2008
Cuttack this the 23rd day of February, 2012

CORAM
HON'BLE SHRI C.R.MOHAPATRA, MEMBER (A)
AND
HON'BLE SHRI A.K.PATNAIK, MEMBER (J)

...
Shri P.Suryanarayan Patra, aged 50 years, S/o. late
P.Narayan Swamy, resident of Vill/PO-Chandipadar,
Via-Bhatkumara, PS-Berhampur, Dist-Ganjam, Orissa
...Applicant

By the Advocates:Mr.P.K.Padhi

-VERSUS-

1. Union of India represented through it's Chief Post Master General, Orissa Circle, At/Post-Bhubaneswar, Dist-Khurda-751001
2. Sr.Superintendent of Post Offices, Berhampur Division, At/PO-Berhampur, Dist-Ganjam, Orissa-760 001
3. Sr.Superintendent of Post Offices, Koraput Division, At/PO-Jeypore, District-Koraput, Orissa-764001

...Respondents

By the Advocates:Mr.U.B.Mohapatra, SSC

...
O R D E R

A.K.PATNAIK, MEMBER (J):

Assailing the legality and validity of order dated 31.4.2004 (Annexure/5) wherein and where under the applicant has been imposed with punishment of removal from service with immediate effect and order dated 31.10.2008 vide Annexure-A/7 whereby the Chief Post Master General (Respondent No.1) while reviewing the said order of punishment, pursuant to the direction of this

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Tribunal in an earlier Original Application No.256/2008 has upheld the order of the Disciplinary Authority, respectively, the applicant has filed this Original Application seeking the following relief.

“...to quash Annexure-A/5 and A/7 and further to direct the Respondents to reinstate the applicant in service with all consequential service benefits including back wages”.

2. The background leading to filing this O.A. is that the applicant, while working as Gramin Dak Sevak Branch Post Master, Chandipadar Branch Office in account with Bhatakumarada S.O. was put under off duty in contemplation of initiation of disciplinary proceedings against him under Rule-10 of GDS (Conduct & Employment) Rules, ²⁰⁰¹2010 on the ground that during course of his employment, he had not accounted for a total amount of Rs.29520/- from the deposit amount of NINE SB and ELEVEN RD accounts of the BO during the period between 18.12.1998 to 20.02.2003. On completion of enquiry, the I.O. submitted Report, copy of which was supplied to the applicant for submission of his representation to which the applicant submitted his written brief. The Disciplinary Authority, in consideration of all materials on record including the written brief of the Applicant, awarded the punishment of removal from service

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vide Annexure-A/5 dated 31.5.2004 with immediate effect. Applicant appears to have not preferred any appeal against the said order of punishment. While the above was the ongoing state of affairs, the matter was reported to Police which registered a P.S. Case and formed the subject matter of G.R. Case No.606/2004 before the Judicial Magistrate, Berhampur. The applicant having been acquitted by the Trial Court vide order dated 21.06.2007 submitted representations to Respondent No.1 for his reinstatement. Alleging non consideration of the said representation, applicant filed O.A.No.256/2008. This Tribunal directed consideration and disposal of the representation filed by the applicant in that behalf. The outcome of the disposal of those representations vide Annexure-A/7 dated 31.10.2008 being not palatable, this O.A. has been filed by the applicant.

3. Respondent-Department have filed their counter opposing the prayer of the applicant and stating that the O.A. being devoid of merit is liable to be dismissed.


4. We have heard Shri P.K.Padhi, learned counsel for the applicant and Shri U.B.Mohapatra, learned Senior Standing Counsel for the Respondents and perused the materials on record. We have also taken note of the written note^{of} argument and memo of citation filed by the applicant.

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5. Shri Padhi has contended that non examination of the applicant by the I.O in detail on each article of charge vitiates the entire proceedings. According to Shri Padhi, one cannot be the witness against himself. It has been further contended that there being provisions for appointment AGS/Defence Assistant, non-adherence of this provisions is violative of the principles of natural justice. The next point urged is that the I.O ought to have explained the applicant the pros and cons of admission and that the I.O. should not have induced the applicant to admit the charge.

On the other hand, Shri U.B.Mohapatra, learned SSC vehemently opposed the submissions made by the applicant. Shri Mohapatra, Learned SSC submitted that since the applicant on the 1st sitting of the inquiry admitted his guilt, there was no other option for the IO than to record the admission so made. According to Shri Mohapatra, the admission recorded had been explained to the CO in regional language. There being no denial to the charges, there was no necessity to examine the applicant on each article of charge. Shri Mohapatra further submitted that since the applicant did not seek assistance of AGS/Defence Assistant, it cannot be said that he has been deprived of the opportunity asked for. According to Shri Mohapatra, there

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being no procedural irregularity in the conduct of disciplinary proceedings and principles of natural justice were strictly followed, the Tribunal should not interfere with the matter.

6. We have carefully considered the submissions made by the rival parties. It is well settled law that things admitted need not be proved. It is well evident from the record that besides admission of the charge by the applicant the IO held the charge proved based on materials available on record. In that view of the matter there is hardly any scope for this Tribunal to interfere in the matter as held by the Hon'ble Apex Court in the case of L.K.Verma Vs HMT Ltd and Another, 2006 SCC (L&S) 278. Besides the above, it is seen that in the Departmental Proceedings the Applicant was visited with the punishment of removal vide order under Annexure-A/5 dated 31-05-2004 whereas the acquittal of the Applicant in the G.R. Case No.606/2004 was long after the order of removal in Disciplinary Proceedings vide order dated 21.06.2007. It is well settled law in the case of **State Bank of Bikaner & Jaipur v Nemi Chand Nalwaya**, 2011 (4) SLR 458 that the findings by the criminal Court will have no effect on previously concluded domestic enquiry especially when the applicant allowed the findings in the




enquiry and the punishment by the disciplinary authority to attain finality by non challenge and, therefore, he is estopped to challenge the decision in disciplinary proceedings after several years on the ground that subsequently the criminal court has acquitted him.


8. The common thread running through in several decisions of the Hon'ble Apex Court that the Tribunal should not interfere with the decision of the Administrator unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court in the sense that it was in defiance of logic or moral standards (Ref. **Union of India v Dwarka Prasad Tiwari**, (2006) 10 SCC 388). The scope of judicial review is limited to the deficiency in decision-making process and not the decision (vide **V.Ramana v S.P.SRTC and Others**, (2005) 7 SCC 338). Further law is well settled mere acquittal in criminal case may not annul departmental action as in the instant case in which even after acquittal in criminal case the other allegation of omission and commission unbecoming on the part of the Applicant mentioned in the charge sheet still remains. It is seen that the order of the DA and AA are well reasoned/discussed and thereby giving no scope for this Tribunal to interfere in the matter.

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9. Viewed the matter from any angle, we find hardly any scope for this Tribunal to interfere in the matter. Hence the OA, for the reasons discussed above, stands dismissed.

No costs.


(C.R. MOHAPATRA)
Member (Admn.)


(A.K. PATNAIK)
Member(Judicial)