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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 190 of 2011
Cuttack, this the 7th day of January, 2013

CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)

Chaitanya Kumar Samal,
Aged about 51 years,
Son of Kutartha Samal,
Working as Senior Accountant,
Office of Director of Accounts (Postal)
Mahanadi Vihar,
Cuttack-4,
Town/Dist. Cuttack.

....Applicant

(By Advocate :Mr. S.K.Rath)

-VERSUS-

Union of India represented by –

- 1 Director General of Post Offices,
Government of India,
Ministry of Communication,
Dak Bhawan,
New Delhi.
2. The Chief Postmaster General,
Orissa Circle,
Bhubaneswar,
Dist.Khurda.
3. Director of Accounts (Postal),
Orissa Circle,
Cuttack-4,
At/Po. Mahanadi Vihar,
Town/Dist.Cuttack.

.....Respondents

(By Advocate : Mr.R.C.Behera)

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O R D E R (oral)**A.K.PATNAIK, MEMBER (J):**

This Original Application has been filed by the Applicant seeking to quash the order of punishment dated 22.02.2010 of withholding of one increment for a period of two years without cumulative effect dated 22.2.2010 by the Director of Accounts (Postal), Orissa Circle, Cuttack /Respondent No.3, in a minor penalty proceedings initiated under Rule 16 of the CCS (CC&A) Rules, 1965 and the order of the Appellate Authority dated 23.12.2010 reducing the said order of punishment to that of withholding of one increment for one year without cumulative effect. He has also prayed to direct the Respondents to grant him all consequential financial and service benefits retrospectively.

2. The applicant seeks the aforesaid relief on the ground that the Disciplinary Authority has acted like a zealous prosecutor and became the judge of his own action. The charge sheet was issued by him stating that the applicant has misbehaved him considered the representation submitted by the applicant and imposed the punishment which is not sustainable in the eyes of law. In this connection he has placed reliance on the DGP&T instruction issued vide Memo No.6/64/64-Disc. Dated 27th January, 1965 (Annexure-A/7).

3. Respondents' stand is that for the misconduct committed by the Applicant charge sheet under Rule 16 of CCS (CC&A) Rules, 1965

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was issued by the appointing-cum-Disciplinary Authority to him giving him opportunity to submit his reply. He submitted his reply and after considering the reply the competent authority imposed the punishment against which the applicant filed appeal and on consideration of the appeal the Appellate Authority reduced the punishment imposed by the Disciplinary Authority to some extent in a well reasoned order which needs no interference.

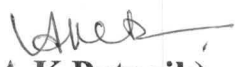
4. Heard Mr.S.K.Rath, Learned Counsel for the Applicant and Mr. R.C.Behera, Learned Additional Standing Counsel appearing for the Respondents and perused the records.

5. I find that the allegation against the applicant that he misbehaved Respondent No.3 whereas the Respondent No.3 issued the charge sheet considered the reply submitted by the applicant and imposed the punishment and, thereby acted himself as the investigator, prosecutor and judge. Such a procedure is opposed to principles of natural justice. Law is well settled that in the case of **Associated Cement Cos. Ltd. V. Their workmen**, 1963 II LLJ 39 that a witness can not be an IO or a Disciplinary Authority and that in the case in the case of **R.L.Sharma VRS. Managing Committee**, AIR 1993 SC 2155 that no one should be the judge of his own cause. Keeping in mind the above aspects, the Government of India have consciously issued instruction Memo No.6/64/64-Disc. Dated 27th January, 1965



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(Annexure-A/7) providing methodology as to who should be the disciplinary authority in the above circumstances. Hence imposition of punishment by the DA to whom the applicant was stated to have misbehaved is held to be not sustainable in the eyes of law. Hence, the order of punishment imposed by the Respondent No.3 dated 22.02.2010 is hereby quashed. Since the very action/order of the Disciplinary Authority is not in accordance with Rule and Law, the order of the AA necessarily does survive and the same is accordingly quashed. Accordingly, the matter is remitted back to the Respondent No.2 for considering the matter in accordance with the Government of India instruction cited above. In the result, this OA stands allowed to the extent stated above. There shall be no order as to costs.


(A.K.Patnaik)
Member (Judicial)