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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.627 OF 2009
Cuttack this the 21st day of March, 2012

Pratap Chandra Singh Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

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

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

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

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CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.627 OF 2009
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HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER
AND
HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

Sri Pratap Chandra Singh, aged 56 years, S/o. late
Jairam Singh, At/Post:Patrapada, Via-Thakurmunda, PS-
Mahulediha, Dist-Mayurbhanj, Orissa-787 038

...Applicant

By the Advocates: M/s.P.K.Padhi, ,PJ Ray, M.Rout, J.Mishra & K.Sharma

-VERSUS-

1. Union of India represented by it's Chief Post Master General, Orissa Circle, At/PO-Bhubaneswar, Dist-Khurda-751001
2. Superintendent of Post Offices, Mayurbhanj Division, At/PO-Baripada, Mayurbhanj-757 001

...Respondents

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

O R D E R

A.K.PATNAIK, MEMBER(J):

The Applicant, while working as Gramin Dak Sevak Branch Post Master (in short GDSBPM), Patrapada Branch Office was issued with Memorandum of Charge dated 24.11.2003 under Rule-10 of GDS(Conduct & Employment) Rules, 2001 containing the following Articles of Charge.

ARTICLE-I

That Sri Pratap Chandra Singh while working as GDSBPM, Patrapada B.O. in account with Thakurmunda S.O. under Rairangpur H.O. during the period from 31.7.201 to 30.4.2002 accepted SB deposit of Rs.200/- (Rupees Two hundred) only on 30.4.2002 from Sri Alexandar Muduli for deposit in his SB Passbook bearing account No.416371 standing at Patrapada B.O. He made necessary entries of deposit in the PB and authenticated with his initial and date stamp impression of the P.O., but credited Rs.100/- (Rupees one hundred) only into account instead of Rs.200/- on that

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day violating the provisions of Rule 131 of the Rules for Branch Offices, Sixth Edition (Second reprint).

By the above act the said Sri Singh failed to maintain absolute integrity and devotion to duty, thereby violated provisions of Rule 21 of GDS (Conduct & Employment) Rules, 2001.

ARTICLE-II

That during the aforesaid period and while functioning as GDSBPM in the aforesaid office the said Sri Pratap Chandra Singh accepted RD deposit of Rs.1560/- (Rs. One thousand five hundred sixty) only on 31.7.2001 from Sri Sankar Baske messenger of Sri Bhakta Majhi for deposit in his RD account No.4401547 standing Patrapada B.O., entered the deposits with passbook with initial and date stamp impression of the post office, but credited only Rs.636/- (Rupees six hundred six) only into account instead of Rs.1560/- on that day violating the provisions of Rule 143 & 144 of the Rules for Branch Office, Sixth Edition (Second reprint).

By the above act the said Sri Singh failed to maintain absolute integrity and devotion to duty, thereby violated provisions of Rule 21 of GDS (Conduct & Employment) Rules, 2001".

2. Applicant having denied the charges, an inquiry was conducted. The Inquiry Officer submitted its report to the Disciplinary Authority disproving both the articles of charge. Disciplinary Authority having differed with the I.O sent the report of the IO along with the reason of disagreement allowing the applicant an opportunity to submit his defence, if any. As the applicant did not submit his defence, the Disciplinary Authority, in consideration of the materials available on record, vide order dated 31.10.2005, imposed the penalty of 'removal' from service on the applicant. The Applicant did not avail of the opportunity of preferring any appeal. However, after lapse of more than four months, he preferred a petition dated 11.3.3006 to the Respondent No.1. Respondent No.1 rejected the said

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petition of the applicant and communicated the same to the applicant in letter dated 03-05-2007. Hence by filing the instant OA, the following relief has been sought by the Applicant:

“...to quash Annexure-A/9 & A/10 and further be pleased to direct the Respondents to reinstate the applicant in service with all consequential benefits including back wages”.

3. The Respondent-Department filed their counter in which they have stated that there being no infraction of Rules and principle of natural justice in the disciplinary proceedings there is hardly of any scope for this Tribunal to interfere in the matter. Hence they have prayed for dismissal of this OA.

4. Applicant has filed rejoinder more or less reiterating the same standpoint as in the O.A.

5. It is the contention of Shri Padhi, Learned Counsel for the Applicant that the documents asked for by the delinquent though considered by the I.O. relevant, but were not supplied to him during the inquiry and therefore, the entire proceedings suffers from violation of the principles of natural justice. According to Shri Padhi findings recorded by the Disciplinary Authority in the disagreement notice are based on no evidence. Hence the punishment imposed is liable to be set aside.

6. In reply, Shri U.B. Mohapatra, Learned Senior Standing Counsel appearing for the Respondents submitted that even if there was any violation of the procedure in the

conduct of proceedings, nothing prevented the applicant from bringing this fact to the notice of the Disciplinary Authority. Besides, it has been submitted that the applicant having not submitted any representation to the disagreement notice of the Disciplinary Authority nor even appeal the reasons of disagreement recorded on the report of the IO and the final order passed is deemed to have been accepted by the Applicant and, therefore, the Applicant is estopped to raise the point at this stage.

7. We have considered the submissions with reference to the pleadings and materials placed on record by the Learned Counsel for both sides.

8. Admittedly, the applicant has been served with the disagreement notice issued to him by the Disciplinary Authority but he did not choose to submit any representation. This ipso facto gives a clear indication that the applicant had nothing to say to the disagreement notice of the Disciplinary Authority. This apart, the applicant did not prefer appeal against the order of the Disciplinary Authority removing him from service. Be that as it may, in the petition filed, Respondent No.1 confirmed the order of the Disciplinary Authority in a well reasoned order. For the reasons best known, copy of the petition preferred to Respondent No.1 has not been annexed to this OA so as to

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enable this Tribunal to know whether any of the points vital for the issue has been left unanswered by the Respondent No.1 in his order under Annexure-A/10.

9. In the instant OA the prayer of the Applicant is to quash the order under Annexure-A/9 & A/10. The order under Annexure-A/9 is dated 31.10.2005 and the order under Annexure-A/10 is dated 03.05.2007 whereas this OA has been filed by the applicant on 27th October, 2009. As per provision under Section-21 of the A.T.Act, 1985, he should have approached the Tribunal within one year of the order under Annexure-A/10 dated 3.5.2007. By filing petition, applicant has sought condonation of delay on the ground that he was ill from 7.4.2008 to 29.11.2008. Applicant has not explained as to what prevented him from approaching the Tribunal between 3.5.2007 and 6.4.2008. In this view of the matter, we cannot but hold that the present O.A is grossly barred by limitation. From the discussions made above, we hold that the O.A. is not only sans merit but also suffers from limitation. Hence the OA stands dismissed by leaving the parties to bear their own costs.


(C.R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(A.K. PATNAIK)
JUDICIAL MEMBER