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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.59 OF 2010
Cuttack this the 10th day of April, 2012

Kangali Ch.Khandual ...Applicant

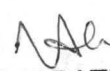
-VERSUS-

Union of India & Ors. ...Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ?
2. Whether it be referred to CAT, PB, New Delhi or not ?


(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER


(A.K.PATNAIK)
JUDICIAL MEMBER

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CORAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER
AND
HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

Kangali Ch.Khandual, aged about 62 years, Son of late Ananta Khandual, At-
Barhapur, Post-Koilipur, Via-Madanpur, PS-Rajnagar, Dist-Kendrapara, Orissa, Ex-
GDSBPM, Koilipur BO in account with Madanpur Sub Post Office, kendrapara Head
Post Office

...Applicant

By the Advocates: M/s.G.Rath & D.K.Mohanty

-VERSUS-

1. Union of India represented through its Director General of Posts, Government of India, Ministry of Communications, Department of Posts, Dak Bhawan, New Delhi-110 001
2. The Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda, PIN-751001
3. The Director of Postal Services, O/o. the Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda, PIN-751 001
4. The Senior Superintendent of Post Offices, RMS 'N' Division, Cuttack-753 001
5. The Superintendent of Post Offices, Cuttack North Division, Cuttack-753 001

...Respondents

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

O R D E R

A.K.PATNAIK, MEMBER(J): Shorn of unnecessary details, it would suffice to state that the applicant, while working as GDSBPM, Koilipur BO had been proceeded against under Rule 10 of GDS (Conduct and Employment) Rules, 2001 under three Articles of Charge. After regular inquiry, whereas Charges under Article Nos. I and II were not proved, Charge No.III stood proved. For the sake of clarity, Charge No.III is extracted hereunder.

Article No.III

Sri Kangali Charan Khandual while working as GDS BPM, Koilipur BO for the period from 2/70 to 25.11.02 during December, 2001 received cash of Rs.2500/- (Rupees two

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thousand five hundred) only from the depositor of Koilipur BO SB a/c. no.697495 for deposit in the said SB account. Sri Khandual entered the transaction in the relevant pass book under his initial without any date and authenticated the deposit by impressing the BO date stamp impression without having the date type in the BO date stamp, in disregard to rule 20 of Rules for Branch Offices (6th edition, 2nd print).

It is therefore alleged that Sri Kangali Charan Khandual failed to maintain absolute integrity and devotion to duty as required of him under the provisions of Rule-21 of GDS (Conduct & Employment) Rules-2001".

2. In consideration of the report of the I.O. and the representation made in that behalf, the Disciplinary Authority imposed the punishment of removal from service on the applicant vide order dated 4.8.2008. The Appeal preferred by the applicant having not yielded any fruitful result, he has filed the present O.A. seeking the following relief.

- i) To quash the entire disciplinary proceedings initiated against the applicant.
- ii) To quash the order of the Disciplinary Authority under Annexure-A/4 dated 04.08.2008.
- iii) To quash the order of the Appellate Authority under Annexure-A/6 dated 30.12.2009.
- iv) To direct the Respondents to reinstate the applicant with all consequential service and financial benefits retrospectively.
- v) To pass any other order/orders as deemed fit and proper.

3. On being noticed, Respondent-Department have filed their counter opposing the prayer of the applicant. They have submitted that the O.A. being devoid of merit is liable to be dismissed.

4. We have heard Shri G.Rath, learned Senior Counsel for the applicant and Shri U.B.Mohapatra, learned Senior Standing Counsel for the Respondents and perused the materials on record.

5. Shri Rath submitted that the Charge proved under Article No.III being very trivial in nature, the applicant should not have been punished with the removal from service which is very harsh and disproportionate to the gravity of offence committed by him. In reply to this, Shri Mohapatra submitted that rules of law having been fully complied with in the conduct of the proceedings and that the charge under Article No.III having been proved, this Tribunal should not interfere with the quantum of punishment as imposed by the Disciplinary Authority.

6. We have considered the submissions made by the learned counsel for the parties. From the materials adduced, we cannot but observe that the charge proved is not so grave in nature warranting punishment of removal from service. However, this fact though the applicant had also brought to the notice of the Appellate Authority the latter has not taken into consideration. In the fitness of things, the ends of justice will be met, if the matter is remitted back to the Appellate Authority (Respondent No.3) for reconsideration of the appeal solely on the point that the punishment of removal as imposed on the applicant appears to be highly disproportionate to the offence committed and thus shocks our judicial conscience. Accordingly, the Respondent No.3 is directed to pass appropriate orders within a period of 45 days from the date of receipt of this order under intimation to the applicant. In the circumstances, we quash the appellate order dated 30.12.2009(Annexure-A/6)

Ordered accordingly.

In the result, O.A. is disposed of as above. No costs.


(C.R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(A.K. PATNA)
JUDICIAL MEMBER