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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

O.A.No.247 of 2012
Cuttack, this the 02nd day of September, 2014

Niranjan Desai Applicant

-Versus-

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be referred to PB for circulation?


(A.K. Patnaik)
Member (Judicial)

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CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH, CUTTACK

Original Application No.247 of 2012
Cuttack, this the 01st day of September, 2014

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

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Sri Niranjan Desai, aged about 57 years, S/o. Late Dasharathi Desai, permanent resident of Village-Panigadia, Po. Tentulia, Via Raj Berhampur, Dist. Balasore-756058 presently working as PA, SBCO, At/Po. Baripada HO, Dist. Mayurbhanj-757001.

...Applicant

(Advocates: M/s.P.K.Padhi, J.Mishra)

-VERSUS-

UNION OF INDIA represented through -

1. The Secretary Cum Director General of Posts, Dak Bhawan, New Delhi-110116.
2. Director of Postal Services (Hqrs.), Office of the Chief Postmaster General, Odisha Circle, Bhubaneswar, Dist. Khurda.
3. Superintendent of Post Offices, Mayurbhanj Division, At/Po. Baripada, Dist. Mayurbhanj, Odisha-757001.

... Respondents

(Advocate: Mr.M.K.Das)

O R D E R

A.K.PATNAIK, MEMBER (JUDL.):

The Applicant, who is working as a Postal Assistant in SBCO, Baripada Head Post Office in the District of Mayurbhanj, being aggrieved by the order of recovery of Rs.20000/- dated 06.01.2012 for his contributory negligence passed by the Disciplinary Authority as a result of the

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Disciplinary Proceedings initiated against him under Rule 16 of the CCS (CC&A) Rules, 1965 vide Memorandum dated 28.09.2011 and the order of rejection of the appeal dated 23.02.2012 has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 praying to quash the Memorandum of charge dated 28.09.2011, order of the Disciplinary Authority dated 06.01.2012 and the order of the Appellate Authority dated 23.02.2012 with cost and compensation on various grounds one amongst them is that imposition of punishment of recovery for contributory negligence is against the law laid down by various Benches including Cuttack Bench of the Tribunal.

2. In the counter, the Respondents have strongly objected to the prayer and stand taken in support thereof in the Original Application and have prayed for dismissal of this OA. But recovery was ordered by way of punishment to the Applicant due to his contributory negligence has not been disputed in the counter.

3. Heard Mr.P.K.Padhi, Learned Counsel for the Applicant and Mr. M.K.Das, Learned Additional CGSC appearing for the Respondents and perused the records.

4. I do not think it necessity to record the arguments advanced by respective parties in support of their respective stands as imposition of punishment of recovery of money for contributory negligence was the subject matter of judicial scrutiny in the cases **C.N.Harihara Nandanam**

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Vrs Presidency Post Master, Madras and another, reported in (1988) 8 Administrative Tribunal Cases page 673 & **J.M.Makwana Vrs UOI and others** reported in 2002 (1) ATJ 283 in which the Tribunal quashed the order of imposition of punishment for contributory negligence. Similar matter came up before this Tribunal in the case of **Sukomal Bag Vrs Union of India and others**, in OA No. 634 of 2009 disposed of on 11th November 2010 and by applying the decision of the other Benches of the Tribunal, quoted above, this Bench also quashed the order of punishment in the above case. The said order of this Tribunal was challenged by the Respondents before the Hon'ble High Court of Orissa in **WP (C) No. 4343 of 2011** but the same was dismissed on 22.8.2011. It is not the case of the Respondents either in the counter or in course of hearing that the aforesaid order of this Tribunal upheld by the Hon'ble High Court of Orissa has in the meantime being reversed/reviewed by any higher forum. This being the only question for determination whether imposition of punishment for contributory negligence is sustainable or not and no new material/authority being produced by the Respondents, I see no justification to differ from the view already taken by this Tribunal which was upheld by the Hon'ble High Court of Orissa. Thus, by applying the doctrine of precedent, the orders of the Disciplinary Authority dated 06.01.2012 dated 23.02.2012 are hereby quashed. But I find no such justification to grant cost and compensation as prayed for by the Applicant.



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5. In the result, with the discussions made above, this OA stands allowed to the extent stated above. There shall be no order as to costs.


(A.K.PATNAIK)
Member (Judicial)

