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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O.A. No.1001 of 2012

Cuttack, this the 1st day of May, 2013

CORAM

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

HON'BLE MR. R. C. MISRA, MEMBER (ADMN.)

.....

Sri Ananta Kumar Panda,
Aged about 56 years,
S/o. Late Bishnu Charan Panda,
At/Post-Badabiruan,
Via-Sankhachila,
Dist.Jajpur.

.....Applicant

(By Advocate(s): Mr.P.K.Padhi)

-Versus-

Union of India represented through

1. Secretary Cum Director General of Posts,
Dak Bhawan,
Sansad Marg,
New Delhi-110 001
2. Director of Postal Services (Hqrs.)
O/O. Chief Postmaster General,
Odisha Circle,
At/Post-Bhubaneswar,
Dist.Khurda-751 001.

Alled

3. Superintendent of Post Offices,
Cuttack North Division,
At-P.K.Parija Marg,
PO-Cuttack GPO,
Dist.Cuttack-753 001.

..... Respondents

(By Advocate: Mr. U.B.Mohapatra)

O R D E R

(oral)

MR. A.K. PATNAIK, MEMBER (J):

Applicant (Shri Ananta Kumar Panda) while working as GDSBPM of Badabiruan Branch Post Office in account with Sankhachilla Sub Post Office was issued with charge Memo under Rule 10 of GDS (Conduct & Employment) Rules, 2001 vide Office Memo dated 07.09.2006. After completion of enquiry, vide order No.F/4-1/04-05 dated 31.08.2010 he was inflicted with the punishment of removal from service with immediate effect. He preferred appeal on 04.12.2010 which was rejected vide order No.ST/4801/2011 dated 29.04.2011 (Annexure-A/8). The Applicant has approached this Tribunal by filing the instant OA praying therein to quash Annexure-A/1, A/4, A/6 & A/8 and direct the Respondents to reinstate the Applicant in service with all consequential benefits including back wages and cost. Copy of this OA has been served on Mr.U.B.Mohapatra, Learned Senior CGSC for the Respondents.

2. We have heard Mr.P.K.Padhi, Learned Counsel for the Applicant and Mr.U.B.Mohapatra, Learned Senior CGSC appearing for the Respondents and perused the records.

3. Mr.Padhi, Learned Counsel for the Applicant, at the first instance, drew our attention to the order of the Appellate Authority dated 29.4.2011 at Annexure-A/8 to justify that the Appellate Authority rejected his appeal without meeting/answering all the points raised by him in his appeal in support of the wrong committed by the IO and DA in the decision making process of the matter in other words, his contention is that the order of the appellate authority is without due application of mind. He has also contended that the power vested with the Appellate Authority to consider appeal preferred by an employee is not an empty formality but to deal with the matter in such a manner which would give an impression to the employee concerned that the order is with due application of mind after meeting/answering all the points raised by him in the appeal. Hence, he has prayed that as the applicant has been suffering due to imposition of punishment of removal in an improper manner and the appellate authority rejected his appeal without due application of mind this OA can be disposed of at this stage by remitting the matter to the Appellate Authority to reconsider the Appeal and pass a reasoned order meeting/answering all the points as the Appellate Authority



enjoys inherent power to remove the injustice by way of setting aside the order of punishment.

Per contra, Mr.U.B.Mohapatra, Learned Senior CGSC appearing for the Respondents vehemently objected to the contention/argument advanced by Mr.Padhi on the ground that there was no wrong in the order of the appellate authority. The report of the IO and order of the DA are quite exhaustive. He has also denied the stand of the applicant that the appellate authority's order is without application of mind. Mr.Mohapatra submitted that the appellate authority took note of all the points raised by applicant and dealt the same in the last para of the order at Annexure-A/8. However, he has submitted that if time is granted to him he would obtain necessary instruction and file a detailed counter in this regard.

4. Power has been vested with the Appellate Authority to consider appeal preferred by an employee against an order of punishment. The expression "consider" is of some significance. In the context of the Rules, the Appellate Authority was required to see as to whether (i) the procedure laid down in the Rules was complied with; (ii) the enquiry officer was justified in arriving at the finding that the delinquent officer was guilty of the misconduct alleged against him and (iii) whether penalty imposed by the disciplinary authority was excessive. In the instant case, we find that the order of the

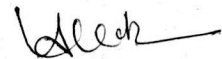


Appellate Authority is a clear-cut example of total non-application of mind. The Appellate Authority, when the rules require application of mind on several factors and the applicant has placed several points in support of the relief, was bound to meet and answer all the points raised in the appeal in seriatim; especially when the appeal is against an order of removal. The above view is gained support by the decision of the Hon'ble Apex Court in the case of **R.P.Bhatt Vrs Union of India and others**, AIR 1986 SC 1040.

5. In view of the discussions made above, the order of the appellate authority under Annexure-A/8 dated 29.4.2011 is quashed and the matter is remitted back to the Appellate Authority to give a fresh look to the appeal of the applicant in the light of the discussions made above and communicate the decision in a reasoned order to the applicant within a period of 60(sixty) days from the date of receipt of copy of this order. It is also ordered that meantime, the status of the Applicant shall be as he was prior to the order issued under Annexure-A/8. With the aforesaid observation and direction this OA stands disposed of. There shall be no order as to costs.



(R.C.Misra)
Member(Admn.)



(A.K.Patnaik)
Member(Judl.)