

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. No. 260/00782 OF 2011
Cuttack, this the 15th day of November, 2017

CORAM
HON'BLE MR. S. K. PATTNAIK, MEMBER(J)
HON'BLE DR. M. SARANGI, MEMBER (A)

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Sri Purna Chandra Jena,
aged about 51 years,
Son of Bhagban Jena,
At-Bagudi, Post-Mahumuhan,
Via-Soro, PS-Soro, Dist:- Balasore,
Pin-756045.

...Applicant
(By the Advocate-M/s. T. Rath, A. K. Rout)

-VERSUS-

Union of India Represented through

1. CPMG, Orissa Circle, At-CPMG Building, Post-Bhubaneswar GPO, Bhubaneswar, Dist-Khurda.
2. Director of Postal Services (HQ), In the office of the CPMG Orissa Circle, At-CPMG Building, Post-Bhubaneswar GPO, Bhubaneswar, Dist- Khurda.
3. Superintendent of Post Offices, Balasore Division, At/Post-Balasore, Dist- Balasore.

...Respondents

(By the Advocate- Mr. S. Behera)

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O R D E R

S.K.PATTNAIK, MEMBER (JUDL.):

The applicant challenges the Inquiry Report dated 15.09.2008 (Annexure-A/9) and order of Disciplinary Authority dated 12.12.2008 (Annexure-A/11) by which he was removed from service with immediate effect. The applicant also challenges the order of the Appellate Authority dated 15.04.2009 (Annexure-A/13), who has upheld the penalty of removal from service. The applicant has filed M.A. No. 1027/2011 to condone the delay on the ground of paucity of funds to approach this Tribunal in time.

2. The case of the applicant, in short, runs as follows:

The applicant while working as Postal Assistant under Jaleswar H.O. was put under suspension pending initiation of a departmental proceeding vide order dated 18.03.2008 followed by service of a memorandum of charge dated 31.12.2007 on the ground of taking 2 lakhs on 28.02.2007 without obtaining necessary sanction from the competent authority and further keeping shortage of cash and stamp balance worth of Rs. 99,000/- and retaining cash beyond the authorized maximum limit. The applicant immediately submitted a show cause denying the charges leveled against him, however, the Inquiry Officer was appointed. The basic grievance of the applicant is that he was not provided with relevant documents and was not allowed sufficient time to adduce defence witnesses. Further plea of the applicant is that the Inquiry Officer so also the Disciplinary Authority and the Appellate Authority

mechanically passed the orders without taking note of the ground reality.

3. Respondents contested the case by filing a counter. According to the Respondents, due opportunity was given to the applicant to defend and even defence assistance was allowed to defend the delinquent employee. Further case of the Respondents is that for such misconduct and misappropriation, a CBI case (RC 015 2008 A0004 dated 29.02.2008) is still pending in the Court of Special Judge, CBI, Bhubaneswar.

4. In a case of this nature when there is shortage of cash, the burden is heavy on the delinquent employee to disprove such fact. Ld. Counsel for the applicant argued that as the applicant was ill and there was delay in sanction of the medical advance, he had taken Rs. 2 lakhs for his treatment. This is not a reasonable plea rather has to be termed as a fanciful plea. For one's own ailment, a public servant is not permitted to withdraw and take government cash. If that will be the standard of appreciation, there will be anarchy. Further more, the applicant signally failed to disprove the charge of shortage of cash of Rs. 99,000/-. Ld. Counsel for the applicant submitted that subsequently the applicant has deposited the amount. Even if it is taken on face value, the said conduct amounts to temporary misappropriation. The plea of the applicant that he was not given opportunity to defend his case is falsified due to the fact that time and again adjournment has been granted to the applicant to produce defence witnesses, which is revealed from the order sheet dated 23.07.2008 (Annexure-A/5), adjournment prayer made on 12.08.2008 on

behalf of his defence assistant (Annexure-A/6) and the order sheet dated 28.08.2008, and, thereafter, the inquiry report came only on 15.09.2008. So much time was granted to the applicant to produce his defence. That apart, when shortage of case is proved by documentary evidence tons of oral evidence will not tilt the position.

5. On going through the order of the Disciplinary Authority and the Appellate Authority, we did not find anything irrational or illegal calling for interference. Apart from merit of this case, we find that filing of the present O.A. in 2011 is hopelessly barred by limitation as the applicant did not approach the Tribunal even within a reasonable distance of time as the Appellate Order was passed in April 2009. Hence ordered.

6. O.A. being devoid of merit is dismissed. .

7. M.A.No. 1027/2011 filed for condonation of delay being hopelessly barred by limitation is also rejected. No costs.

(M. SARANGI)
Member (Admn.)

(S.K.PATTNAIK)
Member (Judl.)