

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO.4745 OF 2001@@
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UNION OF INDIA & ORS.

Appellant (s)

VERSUS

SRI KRUSHNA CHANDRA ACHARYA

Respondent (s)

(With Office Report)

Date : 13/02/2003 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s) Mr. P. Parmeswaran, Adv.

For Respondent (s)

UPON hearing counsel the Court made the following

O R D E R

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Mr. P. Parmeswaran, learned counsel appearing for the appellants argued the matter for about half an hour. None appeared for the respondent.

The impugned order is set aside. The matter is remitted to the High Court. The High Court would restore the writ petition and hear the same on merits, on detailed considerations of the contentions having regard to the materials placed on record. The appeal is ordered accordingly. No costs.

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(A.S. Bisht)
Court Master

(Shelly Sengupta)
Court Master

(Signed order is placed on the file)

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..L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....J

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

UNION OF INDIA & ORS.

APPELLANT(S)

:VERSUS:

SRI KRUSHNA CHANDRA ACHARYA

RESPONDENT(S)

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Heard the learned counsel for the appellants.
None appears for the respondent despite service of
Notice.

The respondent was working as an Extra-Departmental
Branch Post-Master with the Biragovindpur Branch. He was
removed from service after issuing a charge-sheet and
after holding an inquiry on certain charges. The first
paragraph of the charge-sheet reads thus:

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"The undersigned proposes to hold an inquiry
against Shri Krushna Chandra Acharya, EDBPM,
Biragovindpur (put off duty). The substance
of the imputations of misconduct or
misbehaviour in respect of which the inquiry

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is proposed to be held is set out in the
enclosed statement of articles of charge@@
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(Annexure-I) statement of the imputations of@@
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misconduct or mis-behaviour in support of
each article of charge is enclosed
(Annexure-II). A list of documents by which
and a list of witnesses by whom the articles
of charge are propped to be sustained are
also enclosed (Annexure-III and IV)."

..L.....I.....T.....T.....T.....T.....T.....T.....T...J.....R

The two charges are separately and specifically
stated in Annexure-I.

The respondent challenged the order of his dismissal
from service before the Central Administrative Tribunal,
Cuttack Bench. The Tribunal found that the first charge
was vague and was bereft of particulars regarding date and
amount etc. As far as the second charge was concerned, the
Tribunal found fault with it stating that there was no
element of misappropriation even though there was failure
to perform duty and negligence on the part of the
respondent. In that view, the Tribunal set aside the order
of dismissal and remitted the case to the authorities to
reconsider as to the quantum of punishment in regard to

charge No.2. The appellant challenged the said order of the Tribunal before the High Court in a writ petition. The High Court dismissed the writ petition holding that the order of the Tribunal did not suffer from any error apparent on the face of the record.

The learned counsel for the appellants contended that the Tribunal did not understand the charges framed itself correctly. The Tribunal having read para 1 of the charge-sheet, without reading Annexure-1 & 2, held that the charge No.1 was vague and with regard to charge No.2, he contended that the very fact that the department had paid the money to the person concerned covered in the issued letter itself, was good to indicate that the respondent had misappropriated with money. He pointed out that the High Court also did not consider these aspects appropriately, having regard to the records available.

Having perused the impugned order and relevant papers placed on record we are of the view that the High Court should have considered the contentions raised in the writ petition on merits in proper perspective, particularly when the Tribunal had failed to see Annexures I to IV before saying that charge No.1 was vague, so also with

regard to charge No.2. In this view, without expressing one way or the other on the merits of the contentions raised by the learned counsel for the appellant we set aside the impugned order and remit the writ petition to the High Court. The High Court would restore it and hear the same on merits, on detailed considerations of the contentions having regard to the materials placed on record. The appeal is ordered accordingly. No costs.

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.....J~
(SHIVARAJ V. PATIL)@@
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.....J
(ARIJIT PASAYAT)@@
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New Delhi;

February 13, 2003.