

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**WP(C) No.31187 of 2011**

***Krishna Chandra Nayak***

***Petitioner***

Mr. S. Pr. Mohanty, Advocate

*-versus-*

***Union of India and others***

***..... Opposite Parties***

Mr. S.D. Das, ASGI

**CORAM:**

**THE CHIEF JUSTICE**

**JUSTICE R. K. PATTANAİK**

**ORDER**

**29.03.2022**

**Order No.**

03.

1. The challenge by the Petitioner in the present petition is to an order dated 1<sup>st</sup> November, 2011 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack (CAT) dismissing the Petitioner's O.A. No.255 of 2009, wherein he had challenged the order of dismissal from service.
2. The Petitioner was an Extra Departmental Post Master and was proceeded against under the EDA (Conduct and Service) Rules, 1964 on the charge of having defalcated amounts from a Savings Bank Account maintained with the Post Office, Bhimpur. Simultaneously, a G.R. Case No.44 of 1999 was registered against him in the Court of the Judicial Magistrate First Class (J.M.F.C.), Patrapur for the offence under Section 409, IPC.
3. Nearly two years after the dismissal from service, the criminal court by judgment dated 4<sup>th</sup> September, 2001 acquitted the Petitioner and also observed that the prosecution of the Petitioner was malicious. After failing before the appellate authority, the Petitioner approached the CAT.

4. In the first round of litigation ending with an order dated 21<sup>st</sup> April, 2009 of this Court in W.P.(C) No.6144 of 2004, the Petitioner was granted leave to challenge the appellate order dated 24<sup>th</sup> February, 2005 which affirmed the order of dismissal. Pursuant to this liberty, the Petitioner approached the CAT for the second time in O.A. No.255 of 2009.

5. The short ground under which the Petitioner challenged the order of dismissal was that he had got a clean acquittal in the criminal case which was on the very same charges and therefore the punishment of dismissal should be set aside. On two grounds the CAT has rejected the prayer. One was that the Petitioner had not challenged the findings in the domestic enquiry and therefore he was stopped from doing so. Reference was made to the decision ***State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaya, 2011 (4) SLR 458***. Secondly, in view of the law explained in ***Captain M. Paul Anthony v. Bharat Gold Mines Ltd AIR 1999 SC 1416***, it was held that mere acquittal in the criminal case could not ipso facto result in exoneration in the disciplinary proceedings.

5. Learned counsel for the Petitioner reiterated the submissions that in view of the clean acquittal by the criminal court and the further observation that prosecution was malicious, this Court should interfere with the order of dismissal of the Petitioner from service.

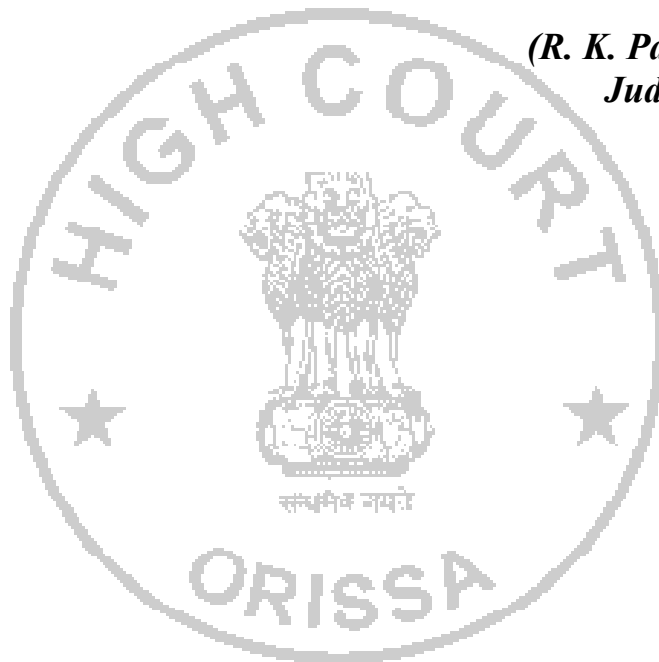
6. As rightly pointed by the CAT, the acquittal in the criminal case, though on the same charges, and though an honourable one will not ipso facto result in the exoneration of the Petitioner in the disciplinary proceedings. The said legal position of have been

reiterated by the Supreme Court in *Captain M. Paul Anthony v. Bharat Gold Mines Ltd.* (*supra*)

7. The Court is accordingly unable to find any ground to interfere with the impugned orders, the petition is dismissed.

**(Dr. S. Muralidhar)**  
**Chief Justice**

**(R. K. Pattanaik)**  
**Judge**



TUDU