

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17221 of 2024

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The Union of India through the Secretary cum Director General Department of Post, Govt. of India and Ors.

... .. Petitioner/s

Versus

Nikhilesh Kumar Manjhi Son of Sri Pitambar Manjhi, aged aboutyears, resident of village - Paramdih, P.O. - Buradih, District- Ranchi (Jharkhand).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha, Sr. CGC

Mr. Ram Tujabh Singh, CGC

For the Respondent/s : Mr. Om Prakash Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

7 08-04-2025 Petitioner Union of India/ Postal Department have assailed the CAT order dated dated 07.02.2024 passed in O.A. No. 050/0381/2017.

2. Respondent, Nikhilesh Kumar Manjhi, was selected and appointed to the post of Postal Sorting Assistant under RMS, Patna Division under Scheduled Tribe categories on 28.09.1997 and to this effect, he had furnished certain documents relating to caste certificate. Caste certificate was supported by verification by the SDM, Khuti and to that effect the letter had been issued vide letter No.235 dated 09.01.2006. Petitioner assumed that the respondent had produced fake verification certificate dated 09.01.2006, vide a letter bearing



No.235. Resultantly charged Memo was issued on 18.10.2007 and it was concluded in imposing penalty of dismissal from service on 22.01.2015. Feeling aggrieved of the order of disciplinary authority, respondent preferred appeal before the Appellate Authority on 08.01.2017 and it was rejected on 26.09.2017 on the sole ground of limitation. In this backdrop, the respondent has presented O.A. No. 381 of 2017. The CAT allowed the original application filed by the respondent on 07.02.2024. Hence, present writ petition on behalf of the Union of India / Postal Department. On 31.01.2025, we have passed the following order :-

“1. Learned counsel for the petitioners is hereby directed to secure day to day records maintained by the inquiring officer including evidence adduced by all the witnesses. He is also hereby requested to verify whether author of Letter No. 235 dated 09.01.2006 cited in Article-I has been cited as witness and has he been examined and cross-examined in the departmental inquiry.

2. Re-list this matter on 28.02.2025.”

3. Today the learned counsel for the petitioner furnished xerox copies of records. Perusal of same, it is evident that exhibit S-5 dated 09.01.2006 bearing No. 235 and its author has not been cited as witness, examined or cross-examined so as to draw inference in the departmental enquiry to the extent that



respondent had submitted fake verification of his caste.

4. On the other hand, one of the official or the petitioner is stated to have visited the office of the verification authority and obtained information to the extent that the office of the Sub Divisional Officer, Khuti had not issued the letter dated 09.01.2006 bearing No. 235. Such statement cannot be taken note of and proceed to conclude the departmental enquiry against the respondent in the absence of examination and cross-examination of the author of the letter bearing No. 235 dated 09.01.2006. Further, it is necessary to gather information which is the original verification letter which is alleged to have been issued vide bearing letter No.235 dated 09.01.2006 and its author or officer must come and depose that Respondent has got fake verification letter bearing No.235 dated 09.01.2006 with reference to dispatch register etc,. This exercise has not been undertaken by the disciplinary authority or inquiry officer.

5. The Hon'ble Supreme Court, in the case of **S.C. Girotra Vs. United Commercial Bank (Uco Bank)**, reported in **1995 Supp. (3) SCC 212, in Para-3**, has held that author of the documents was required to be examined in a departmental inquiry/domestic inquiry, failing which, entire inquiry proceeding stands vitiated.



Paragraph No.3 of the said decision reads as under:-

“3. Admittedly, the disciplinary authority while making the order of dismissal stated as under:

The presenting officer has submitted 28 exhibits, most of which are in the form of certificates of Shri Rajinder Paul and B.B. Bhatia, Officer and the then Assistant Manager of the branch, while one document (PEX-26) is in the form of inspection/investigation report of Shri V.P. Jindal and Shri J.R. Sharma. The certificates and inspection-cum-investigation report are most comprehensive documents.

Inspection-cum-investigation report has been prepared by two senior officers of the then Division Office, Punjab Division, Chandigarh, after their painstaking efforts of about two months. This has been substantiated by various certificates of the two officers of the branch. All the four officers appeared before the Enquiry Officer" and testified to their authorship of the documents. Their certificates/Inspection- cum- Investigation Call for a report from the Court of learned A.C.J.M. Ist, Saran at Chapra /Court concerned regarding the present stage of the trial in connection with Taraiya P.S. Case No.31 of 2016. The report must indicate the number of charge-sheet witnesses, number of witnesses already examined and cross-examined and number of witnesses yet to be examined. The report shall also indicate the estimated time in which the trial is likely to be concluded. comprehensively cover all the allegations/charges made/leveled in the charge-sheet. They have also been supported by other documents.

From the above extract it is clear that the report on which reliance was placed by the disciplinary authority was a comprehensive



document in which conclusions were reached against the appellant on the basis of materials including the books and records of the bank as well as some certificates issued by officers of the bank which constituted evidence in support of the charges leveled against the appellant. It is also clear that no opportunity was given to the appellant to cross-examine either the makers of that report, Mr. V.P. Jindal and Mr J.R. Sharma or the officers who had granted such certificates which formed evidence to prove the charges which led to the order of dismissal passed by the disciplinary authority, even though those persons were examined for the purpose of proving the documents relating to them. In our opinion, the grievance made by the appellant that refusal of permission to cross-examine these witnesses was denial of reasonable opportunity of defence to the appellant, is justified.”

6. In the light of these facts and circumstances the petitioner are not made out a case to interfere with the impugned order dated 07.02.2024 passed in O.A. No.050/0381/2017 passed by Central Administrative Tribunal, Patna.

7. Accordingly, the writ petition stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Sinha, J)

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