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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No. 41 of 1986.

Date of decision : July 21, 1987.

Gouranga Baye

...

Applicant.

Versus

Union of India and others ...

Respondents.

For Applicant : M/s. P. V. Ramdas,
M. R. Sahoo, Advocates.

For Respondents : Mr. A. B. Mishra, Senior Standing
Counsel (Central).

C O R A M :

THE HON'BLE MR. K. P. ACHARYA, MEMBER (JUDICIAL)

A N D

THE HON'BLE MR. S. D. PRASAD, MEMBER (ADMINISTRATIVE).

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No.
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

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JUDGMENT

K.P.ACHARYA, MEMBER (J)

In this application under section 19 of the Administrative Tribunals Act, 1985, the order passed by the competent authority putting off the applicant from duty has been challenged on the ground that the order passed by the Inspector of Post Offices was not confirmed within the requisite period, i.e., 15 days as envisaged under the Rules, by the concerned Superintendent of Post Offices. Furthermore, relief has been sought regarding the payment of back wages from the date on which the applicant was put off from duty till the date on which the punishment awarded to him by the Disciplinary authority was set aside in appeal and the matter was remanded for de novo enquiry.

2. Shortly stated, the case of the applicant is that he was an Extra-departmental Sub-Postmaster of Ichhapara Post Office within the district of Bolangir. The applicant was appointed as such on 1st March, 1980. During inspection, it was found that the applicant had misappropriated certain Government money for which the Inspector of Post Offices ordered the applicant to be put off from duty with effect from 3rd July, 1982 and it was the case of the applicant that the confirmation order was passed by the concerned Superintendent of Post Offices on 21st July, 1982. A departmental proceeding was initiated against the applicant on 24th March, 1983 and on 21st December, 1984 the enquiring officer submitted his report. Ultimately the disciplinary authority vide his order dated 9th January, 1985 ordered removal of the applicant from service. The matter was carried in appeal

and the appellate authority by his order dated 29th May, 1985 set aside the order of the disciplinary authority holding that there were some laches on the part of the prosecution for which the applicant was denied the opportunity of adequately and effectively defending himself and therefore the appellate authority directed *al de novo* enquiry into the matter vide Annexure-6. While the matter was thus pending, the applicant came up with this application under section 19 of the Administrative Tribunals Act, 1985, with the aforesaid prayer.

3. In their counter the respondents maintained that the applicant is not entitled to claim any relief because the order passed by the Inspector of Post Offices putting off the applicant from duty with effect from 3rd July, 1982 was confirmed within the stipulated period, i.e., within 15 days. It is further maintained on behalf of the respondents that under Rule 9(3) of the Extra Departmental Agents (Conduct & Service) Rules, 1964, the applicant is not entitled to any back wages and, therefore, the application being devoid of merit is liable to be dismissed.

4. During the course of argument, Mr. Ramdas relied upon several judgments of the Kerala High Court and that of the Orissa High Court stating that the Extra-departmental Postmaster is entitled to back wages. We do not propose to go into those judgments and judgments cited by learned Senior Standing Counsel (Central) to repel the contention of Mr. Ramdas because during the course of argument we were told by learned Senior Standing Counsel (Central) that the enquiry

which was being conducted against the applicant after the matter was remanded by the appellate authority has practically come to an end so much so the enquiry report is awaited by the disciplinary authority. No doubt, it shocking that the disciplinary proceeding initiated in the year 1983 went on for two years and ultimately the appellate authority remanded the matter in the year 1985 and till to-day it has not been disposed of even though the Calcutta Bench on circuit did not ~~accede~~ to the requests made on behalf of the applicant to stay further proceeding of the enquiry and it was rightly not pressed by Mr. Ramdas. However, in past in several other cases we have observed for expeditious disposal of the proceedings keeping in view the directives of the Director General, Posts & Telegraphs to the effect that such proceedings must be disposed of within four months, namely, 120 days. We are sure that the Post Master General, Orissa must have been taking steps to ensure that the directives given by the Director General of Posts & Telegraphs are ^{observed} complied not more on the side of breach but on the side of compliance. However, coming to the merits of this case, we do not propose to express any opinion on the contention put forward by the applicant and the arguments advanced by learned Senior Standing Counsel (Central) repelling the contention of the applicant that Extra-departmental Post Master is not entitled to back wages because particularly in this case, the entitlement of the applicant to his emoluments may depend upon the result of the enquiry. We feel that any opinion expressed by us may embarrass the Enquiring officer or the disciplinary

authority and therefore intentionally we do not propose to express any opinion leaving the matter to be kept open to be taken up at the appropriate time, if any adverse order is passed against the applicant.

As regards the contention of the applicant regarding the delayed confirmation of the put-off duty order passed by the Inspector of Post Offices, we had called for the relevant records and we found that the Superintendent of Post Offices, Bolangir had confirmed the order of the Inspector of Post Offices on 16.7.1982. Mr. Ramdas submitted that the order, if any, passed on 16.7.1982 was communicated to the applicant much later, i.e., on 21.7.1982 and therefore, the order of confirmation was not passed within the stipulated period. Mr. Ramdas wanted to draw a distinction between the date of confirmation of the order and communication. Relevant rule was placed before us and we have found therefrom that the order of confirmation must be passed within 15 days. Nowhere in the rule it is stated that the communication must be made within 15 days. In view of the aforesaid facts and circumstances we find that there is no merit in the contention of Mr. Ramdas that the order has not been confirmed within 15 days and hence this contention stands rejected.

5. Thus, this application is accordingly disposed of leaving the parties to bear their own costs with an observation that the enquiry pending against the applicant should be disposed of finally by the disciplinary authority within six weeks from the date of receipt of a copy of this judgment.

By this we mean to say that the enquiring officer having completed the enquiry, the only thing remains is submission of his report to the Disciplinary authority. We hope the enquiring officer would submit his report not later than 14th August, ¹⁹⁸⁷ and we also hope the disciplinary authority would pass appropriate orders according to law by the end of August, 1987.

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Member (Judicial)

S.D.PRASAD, MEMBER (ADMINISTRATIVE),

I agree.

S. D. Prasad
.....
Member (Admn.)



Central Administrative Tribunal,
Cuttack Bench, Cuttack.
July 21, 1987/S. Sarangi.