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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH :CUTTACK.

ORIGINAL APPLICATION NO.10 OF 1986.

DATE OF DECISION : MARCH 25,1987.

Ch.Gagan Chandra Das — Applicant.

M/sDevananda Misra,
Deepak Misra,RajenMohapatra,
Advocates — For Applicant

Vrs.

Union of India and others — Respondents.

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

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C O R A M :

THE HON'BLE MR.B.R.PATEL,VICE-CHAIRMAN

A N D

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

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1. Whether reporters of local papers may be allowed to see the judgment ? Yes.

2. To be referred to the Reporters or not ? Yes.

3. WhetherTheir Lordships wish to see the fair copy of the judgment ? Yes.

J U D G M E N T

K.P.ACHARYA,MEMBER(J) The applicant is an employee in the Postal department. It is alleged against the applicant that he had availed leave travel concession facility for the block period 1982-85 and for the said purpose the applicant had drawn some money as advance. The applicant had to travel from Cuttack to Srinagar in a Bharat Darshan Special Train scheduled to leave Cuttack on 1.6.1982. Further allegation is that the applicant though submitted a receipt from the person plying the Jatra Special train in token of having purchased First class tickets for him and members of his family yet in view of the peculiar features appearing in the case, the applicant could not have travelled in First Class because reports were received by the Postal authorities that there were only 10 First class berths in the train whereas the total number of employees said to have been travelling in the train in First Class constituted 39 families containing 208 persons including children about one hundred in number. Hence disciplinary proceeding was initiated against the applicant alleging misconduct/lack of integrityetc. While proceeding against the applicant and others(who are applicants in several other cases before us) was initiated the present applicant along with others came upto the Tribunal and their cases (including that of the present applicant) was admitted but the Bench refused to issue any interim orders staying the proceeding. The only order that was passed by the Bench is that the proceeding may continue but the findings would not be delivered to the disciplinary authority till the disposal of the present application and other applications of similar nature. In a nut shell, it may be stated that the applicant has come up before this Bench with a prayer to quash the proceeding as according to the applicant there is no valid charge framed against him.

2. In their counter the Respondents maintained that the orders

passed by the competent authority initiating proceeding against the applicant is not illegal and because of the misconduct on the part of the petitioner, the competent authority ordered initiation of a disciplinary proceeding. It is further maintained that the charges are not vague. Hence the petition is liable to be dismissed.

3. We have heard Mr.Deepak Misra, learned counsel appearing for the petitioner and learned Senior Standing Counsel(Central) appearing on behalf of the Respondents on the question of quashing of the disciplinary proceeding. During the course of argument Mr.Deepak Misra urged certain points of law challenging the maintainability of the proceeding. Mr.Deepak Misra relied upon the judgment of the Supreme Court reported in AIR 1984 SC 1361(A.L.Kalra vrs. Project and Equipment Corporation of India Limited) and Mr.Deepak Misra also relied upon a judgment of the Orissa High Court reported in 1985 Orissa Law Review(Vol.II)494 (Dr.Sushila Misra vrs. Union of India). The Orissa High Court has followed the view propounded by the Hon'ble Supreme Court in the case of A.L.Kalra(supra) holding that Rule 3 of the Conduct Rules does not specify misconduct. Hence Their Lordships were of the view that only the statement made in the charge that the offence as alleged amounts to misconduct cannot be sustained. Hence it was urged by Mr.Deepak Misra that the proceeding should be quashed. We have our grave doubts if the principles laid down in the case of A.L.Kalra (supra)could have any application to this case for the present because whether the allegations levelled against the applicant constituted misconduct coming within the purview of Rule 3 of the Conduct Rules could be adjudged after entire evidence is scanned. The case has not reached that stage. While learned Senior Standing Counsel(Central) was replying to the aforesaid point of law urged by Mr.Deepak Misra a suggestion was given from the Bar by the Advocates appearing for different applicants in different cases including Mr.Deepak Misra that

the applicants are prepared to pay back the entire amount drawn by them instead of making themselves to face the hazards of the enquiry and then the judicial process,which would be a great hardship. The applicants want to be relieved of their mental tension. It was submitted on behalf of the applicant and others that this proposal put forward on behalf of the applicant and others should not be treated as an admission by them that they are guilty of the charges. Their sole intention in putting forth this proposal is to find a device for an alternate remedy being granted to them because in the case of N.C.Sahoo and 12 others of Bhadrak Zone the postal authorities have taken a lenient view that the differential amount between the Second class fare and first class fare should be realised from those 13 incumbents who were at Bhadrak and it is further more ordered that after realisation of the amount no further action need be taken against those incumbents. This formed subject matter of the letter No.Viz./Gen./30/82 dated 30th April,1985 addressed to Shri R.K.Nayak,Superintendent of Post Offices, Bhadrak Division, Bhadrak by one S.V.N.Swamy,V.O.(P).Basing on this letter (which forms subject matter of Annexure;1/6 in O.A.12 of 1986) it was contended by Mr.Deepak Misra that in the present case there is absolutely no allegation far less of any charge being framed that the applicant and others had not at all undertaken the journey. The substratum of the charge is that they could not have travelled in First Class even though they claimed to have travelled in first class. In the Bhadrak case the departmental authorities have realised the differenetial amount. But in the present case the applicant is agreeable to refund the entire amount and therefore clemency should be shown to the applicant. We think this proposal is very wholesome and if accepted, itwould cereate no discrimination in the matter of taking action between those 13 incumbents of Bhadrak Division and the present applicant as parity

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would be maintained. In order to maintain parity and to avoid discrimination we would direct that the petitioner would return back the entire amount taken under leave travel concession to the Postal authorities in 30 equal monthly instalments to begin from lst May,1987. The competent authority would be at liberty to deduct the monthly instalment from the monthly salary. In case the applicant would retire before the expiry of the instalment period, then the competent authority would be at liberty to realise the balance amount from the gratuity money payable to the retiring employee-applicant.

In view of the circumstances stated above, the proceeding against the applicant is hereby quashed. Learned counsel for the applicant assured us on behalf of the applicant that the applicant would make no further grievance before his authorities in the matter of recovery and no such grievance,if any, would be entertained.

4. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

Member(Judicial)

B.R.PATEL,VICE-CHAIRMAN,

I agree

Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench,Cuttack.
March 25,1987/S.Sarangi