13 (IV) 6

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.165 of 1987.

Date of decision: October 7,1988.

Bijaya Kumar Hati, son of late Jagannath Hati, aged about 25 years, Postal Assistant, G.P.O., Bhubaneswar.

... Applicant.

Versus

1. Senior Superintendent of Post Offices, Bhubaneswar Division, Bhubaneswar, Dist.Puri.

2. Union of India represented by Post Master General, Bhubaneswar, Dist.Puri. ...

Respondents.

For the applicant ... M/s.S.S.Mohanty, R.Ch.Sahoo, S.Ch.Satpathy, S.L.Patnaik, Advocates.

For the respondents ... Mr.A.B.Mishra, Senior Standing Counsel (Central)

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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 ? No

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

J U D G M E N T

K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant seeks to quash the departmental proceeding initiated against him.

3. Shortly stated, the case of the applicant is that he is working as a Postal Assistant and has been posted at Bhubaneswar being appointed in the year 1983 and according to the applicant he had discharged satisfactory service during this period so much so his authorities were fully satisfied with the work rendered by the applicant. In course of time it was found by his authorities that in order to secure a post of Postal Assistant the applicant had filed a certificate (true copy) indicating that he was an ex-serviceman and therefore, the applicant on the basis of such a certificate secured a job which was reserved for an ex-serviceman. Such certificate having prima facie been found to be forged or manufactured or atleast not a genuine one, a proceeding has been initiated against the applicant for having contravened or violated Rule 3 of the Central Civil Services (Conduct) Rules, 1964. Being aggrieved by the initiation of this proceeding, the applicant has come up before this Bench with a prayer to quash the same.

3. In their counter, the respondents maintained that a prima facie case having been found against the applicant, rightly the disciplinary authority ordered initiation of a departmental proceeding and it is further maintained by the respondents that at this stage any orders passed by this

Bench quashing the proceeding would amount to prejudging the issues and therefore, it is further maintained by the respondents that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr.S.S.Mohanty, learned counsel for the applicant and learned Senior Standing Counsel (Central), Mr.A.B. Mishra at some length. Mr.Mohanty strenuously urged before us that the provisions contained in Rule 3 of the C.C.S. (Conduct) Rules, would have absolutely no application to the facts of the present case and therefore, the Bench should quash the proceeding. Apart from the above contention Mr.Mohanty also urged with vehemence many other points relating to the charge which we do not want to indicate herein because we would not like to express any opinion on the merits of the contentions raised by Mr.Mohanty which was also stiffly and vehemently opposed by learned Senior Standing Counsel (Central). We would intentionally omit to state the contentions raised by both sides because we would not like to express any opinion relating to those contentions, lest it may embarrass the enquiring officer. Therefore, we leave the matter open to be decided at the conclusion of the proceeding itself. In view of the fact that a prima facie case having been found against the applicant, we do not deem it just and expedient in the interest of justice to quash the proceeding and we would direct that the proceeding be disposed of maximum within 120 days from the date of receipt of a copy of this judgment. Mr.Mohanty submits that the applicant would not ask for any adjournment, In case, the applicant asks for any adjournment, and it is found to be genuine, and if it is allowed by the enquiring officer, such period shall be excluded from the stipulated period of 120 days.

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

7/10/88

Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN, I agree.

7.10.88

Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
October 7, 1988/S.Sarangi.