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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK.

ORIGINAL APPLICATION NO.190 OF 1987

Date of decision : November 19, 1987.

Shri P.S.N.Murthy,  
South Eastern Railway,  
A.EN(GENERAL) Khurda Road,  
District-Puri, Orissa ...

Applicant.

Versus

1. The General Manager,  
South Eastern Railway,  
Garden Reach, Calcutta-43.
2. Union of India, through the  
General Manager, South Eastern  
Railway, Garden Reach, Calcutta-43.

Respondents.

For the Applicant

...

M/s.S.S.Basu,  
G.S.Das, Advocates.

For the Respondents

...

Mr.Ashok Mohanty,  
Standing Counsel (Railways)

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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.
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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 prays to quash the departmental proceeding pending against him.

2. Shortly stated, the case of the applicant is that he is an Assistant Engineer under the South Eastern Railway now stationed at Khurda Road. It was alleged against the applicant that on 18.7.1977 the applicant travelled from Bilaspur to Howrah on his personal work <sup>and</sup> ~~as~~ he utilised a metal pass issued in favour of the applicant which is meant to be used only on official duty. The applicant having violated the conditions of use of metal pass a disciplinary proceeding was initiated against the applicant. The greater details of ~~the~~ progress of the proceeding need not be stated but it would suffice to say that this matter was carried to the Hon'ble High Court of Calcutta on some occasion when the applicant was aggrieved by certain adverse orders passed against him by the appropriate authority. The Calcutta High Court sent the case to the Central Administrative Tribunal, Calcutta Bench under section 29 of the Administrative Tribunals Act and the Calcutta Bench of the Tribunal gave certain directions for de novo enquiry. While the matter thus stood, the applicant having been now stationed Khurda Road has invoked the jurisdiction of this Bench to <sup>be</sup> exercised in his favour in quashing the proceeding.

3. In their counter the respondents maintained that the proceeding should not be quashed because there is evidence to establish the charge.

4. We have heard Mr.S.S.Basu,learned counsel appearing for the applicant and Mr.Ashok Mohanty,learned Standing Counsel appearing for the Railway Administration at some length. Mr.Mohanty vehemently and emphatically pressed before us that this Bench should not quash the proceeding because it would give rise to similar offences being committed by several other persons who would feel encouraged and it was further submitted by Mr.Mohanty that the department is eager to dispose of the proceeding as expeditiously as possible and the department would certainly do justice to the applicant. On the other hand, Mr.Basu contended that the applicant is retiring on superannuation on 30th November, 1987 which means 11 days hereafter the applicant would retire on superannuation. It was further contended by Mr.Basu that no useful purpose would be served to beat a dead horse especially keeping in mind that the date of occurrence is 19th July,1977. We have given our anxious consideration to the arguments advanced at the Bar and we also find that the applicant has also faced several hardships in the process of the hazards of facing the enquiry and approaching the High Court of Calcutta and Central Administrative Tribunal, Calcutta Bench, which in our opinion, is sufficient punishment for the applicant for long 10 years. That apart, we feel that due to the pendency of this proceeding the applicant has been rightly deprived of his promotional avenues and we also feel that this is sufficient punishment invited by the applicant upon himself. This culminated in lot of financial hardship to the applicant and great misfortune is on the part of the applicant that he would retire as Assistant Engineer - a post which he had joined at the initial stage of appointment pertaining to the year 1964. Over and above,

even if the applicant is found to be guilty a very nominal punishment would be imposed on him. Keeping in view all the aforesaid facts and circumstances, and especially the fact that no pecuniary loss has been caused to the Government, and that the proceeding is pending about 8 to 10 years which has heavily weighed with us, we feel that no longer the matter should be pursued. We also feel persuaded to rely on a judgment of the Hon'ble Supreme Court reported in AIR 1981 SC 858 ( Union of India and others v. M.B.Patnaik and others). In this case, Their Lordships did not feel inclined to allow the proceeding to be carried on in view of its long pendency and therefore Their Lordships had ordered quashing of the proceeding . Applying the principles laid down by Their Lordships in the aforesaid judgment to the facts of the present case we also find that the proceeding has been going on for last 10 years and due to this reason stated above, we feel that ends of justice would not be infringed if the proceeding is quashed. Despite the vehement opposition of Mr.Ashok Mohanty, learned Standing Counsel for the Railway Administration we feel that no fruitful purpose would be served by prolonging the matter and therefore we do hereby quash the proceeding. We would like to make it clear that the delay in conclusion of the enquiry is never due to the fault of the departmental authorities and this was contended by Mr. Ashok Mohanty with which we do agree.

5. Thus, this application stands allowed leaving the

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parties to bear their own costs.

*h. g. sarangi*  
.....19.11.87.....  
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

9 agree.

*B.R. Patel*  
.....19.11.87.....  
Vice-Chairman



Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
November 19, 1987/S. Sarangi.