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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

ORIGINAL APPLICATION NO.276 of 1987.

Date of decision : November 19, 1987.

Shri P.S.N.Murty, South Eastern
Railway, A.E.N. (General) Khurda Road,
Dist.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.
3. Sri K.Suryanarayana, Chief Bridge Engineer, 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)

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)

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.

JUDGMENT

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

2. Shortly stated, the case of the applicant is that he is an Assistant Engineer serving under the South Eastern Railway since 1964. In the year 1969 charges were framed against the applicant for having recorded excess measurement of work done in Baitarani Bridge and on that account charges were framed against the applicant while initiating a disciplinary proceeding. The details in regard to this case need not be stated and it would suffice for the present purpose to say that this case was dealt with by the Hon'ble High Court of Calcutta on certain occasion and the case was ultimately transferred to the Central Administrative Tribunal, Calcutta Bench under section 29 of the Administrative Tribunals Act, 1985, for disposal according to law. The said case came up before the Division Bench of the Calcutta Bench and vide order dated 29.4.1986 the Calcutta Bench remanded the matter for further enquiry keeping in view certain Judge made Laws of the Hon'ble Supreme Court and gave direction that the enquiry must be disposed of within a particular fixed period. The enquiry not having been disposed of within that particular period the applicant files this application to quash the proceeding.

3. In their counter, the respondents maintained that the enquiry could not be disposed of within the fixed period due to certain unavoidable reasons and for no fault of the departmental

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authorities and therefore, it is maintained on behalf of the respondents that the proceeding in question should not be quashed.

4. We have heard Mr.S.S.Basu, learned counsel appearing for the applicant and Mr.Ashok Mohanty, learned Standing Counsel for the Railway Administation at some length. Mr.Ashok Mohanty drew our attention to paragraph 2 of the counter wherein reasons have been given to indicate that there was no laches on the part of the departmental authorities in regard to the delay having occurred in the final disposal of the proceeding. Relying on the averments made in paragraph 2 of the counter, Mr.Ashok Mohanty vehemently contended that on this ground the proceeding should not be quashed. On the other hand, Mr.Basu, learned counsel for the applicant contended that it was very well open to the respondents to seek an extension of time from the Calcutta Bench and such extension of time not having been prayed for the proceeding should be quashed. Mr.Mohanty in reply thereto submitted that the lawyer appearing on behalf of the Railways in the Calcutta Bench of the Tribunal was instructed to ask for time. But we may say that no documents were placed before us to at least say that instructions were given to the lawyer at Calcutta to ask for extension of time but the facts remains that no extension of time from the Calcutta Bench had been obtained. In addition to the above mentioned facts, Mr.Basu also contended that the charges were framed in the year 1969 and much water have flown in the mean while and the applicant has faced the hazards of the enquiry with considerable mental agony and having undergone



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financial hardship. We are also told that the applicant would retire on superannuation on 30th November, 1987 from the post which he had been occupying since 1964, probably due to the pendency of the proceeding in question. No promotion was rightly given to the applicant. In view of the extenuating circumstance we feel that no fruitful purpose would be served by beating a dead horse and allowing the proceeding to continue. Despite vehement opposition advanced by Mr. Ashok Mohanty, learned Standing Counsel for the Railway Administration we cannot but feel tempted to rely on a judgment of the Hon'ble Supreme Court reported in AIR 1981 SC 858 (Union of India and others vrs. M.B. Patnaik and others) in which Their Lordships have held that long pending proceeding to the extent of 10 or 15 years should not be allowed to continue. Applying the above principles to the facts of the present case and keeping in view all these facts in mind, we think ends of justice would be met if the proceeding is quashed.

5. We would also make it clear that the delay has not occurred due to the laches of anybody. In view of the discussions made above, we do hereby quash the proceeding.

6. Thus, this application stands allowed leaving the parties to bear their own costs.

..... 19.11.87.
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.

..... 19.11.87.
Vice-Chairman

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