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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

ORIGINAL APPLICATION No. 362 OF 1987.

Date of decision ... December 8, 1987.

Sri Jagannath Dash sonof Sri Padmanav Dash,
Postal Assistant, Bhubaneswar G.P.O. Dist- Puri.

.... Applicant.

Versus

1. Union of India, represented through the Senior Superintendent of Post Offices, Bhubaneswar- 751 001, Dist- Puri.
2. Krishna Kamal Ghose, ASPO (Printing)-cum-I.O. Office of the Superintendent Postal, Stores Depot, Bhubaneswar- 751 007.

.... Respondents.

For Applicant : M/s Samareswar Mohanty,
S.Ch. Satpathy, R.Ch. Sahoo &
S.L. Pradhan, Advocates .

For Respondents : Mr. A.B. Misra, Sr. Standing Counsel (Central)

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

JUDGMENT

K.P. ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant has a grievance that the Defence Assistant suggested by him to defend him in a departmental inquiry is not being allowed. The applicant prayed to the appropriate authority to allow Sri Satchidananda Swain, Sub- Post Master, Nimapara to defend him in a disciplinary inquiry which has been initiated against the present applicant. The competent authority has refused to allow the prayer of the applicant to the above effect on the ground that the said Satchidananda Swain is facing a charge in a Criminal Court and therefore, his attendance in the criminal court may not allow him to appear before the Inquiring Officer and defend the present applicant.

2. We have heard Mr. Samareswar Mohanty, learned counsel for the applicant and Mr. A.B. Misra, learned Sr. Standing Counsel for the Central Government at some length. As agreed by the counsel for the applicant, we would direct that Sri Satchidananda Swain, Sub- Postmaster, Nimapara Post Office be allowed to defend the applicant in the disciplinary inquiry subject to the condition that if the disciplinary inquiry is fixed to a date on which the criminal trial pending against Satchidananda has already been fixed and Satchidananda attends the criminal court, eventually he would not be able to attend the disciplinary inquiry and absence of Satchidananda from the disciplinary inquiry to defend the present applicant would not be a ground for the applicant to seek an adjournment of the

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disciplinary inquiry ; on the contrary the applicant's counsel has undertaken before us that the applicant would cross-examine the witnesses who would be examined on behalf of the prosecution to bring home the charge against the applicant and on that account the applicant would not claim any prejudice . The date to which the inquiry proceeding is fixed if does not coincide with the date of hearing of the criminal case, in that event the said Satchidananda Swain must be made available to defend the applicant in the inquiry proceeding.

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

Agreed
8/12/87
Member (Judicial)

B.R. PATEL, VICE CHAIRMAN,

I agree.

B.R. Patel
8/12/87
Vice Chairman.

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
December 8, 1987/Roy SPA.

