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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.443 of 1988.

Date of decision : July 16,1990.

Sri Bansidhar Mahabhoi ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s.M.R.Panda,
G.R.Nai,
P.K.Panda, Advocates.

For the respondents ... Mr.Tahali Dalai,
Addl.Standing Counsel (Central)

CORAM:

THE HONOURABLE MR.B.R.PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR.N.SENGUPTA, 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.

J U D G M E N T

N.SENGUPTA, MEMBER (J) The applicant has prayed for the reliefs of quashing the order of termination of service vide Annexure-1 dated 18.4.1986, a direction to the respondents to reinstate him with all consequential service benefits and to pay him the wage and allowances admissible under law.

2. The allegations made by the applicant are that he was working as a casual Mazdoor and was empanelled in

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Category III under the Sub-Divisional Officer, Telegraphs, Dhenkanal, (Respondent No.3). In February, 1986, he was involved in a criminal case which ended in acquittal on 26.2.1988. He had been prosecuted for the offence punishable under sections 307/326/324 of the Indian Penal Code. The S.D.O., Telegraphs, Dhenkanal on 18.4.1986 passed an order, copy of which is Annexure-1 to the application, stating that it was reported by the Officer-in-Charge, Bamarpal Police-station that the applicant was involved in a criminal case under section 307 of the Indian Penal Code and was detained in Police custody for more than 48 hours. The S.D.O., Telegraphs further stated that the integrity of the applicant was doubtful. So, his service was terminated as no longer required by the Department. The applicant made a representation to the S.D.O., Telegraphs, Dhenkanal after his acquittal in the criminal case, copy at Annexure-2 to the application. This representation was forwarded by the S.D.O., Telegraphs, Dhenkanal to the Telecom. Divisional Engineer, Dhenkanal for disposal and there is no specific averment as to what happened to that representation, from paragraph 4.12 it may be gathered that the representation did not find favour with the authorities. On these allegations the applicant has prayed for the aforesaid reliefs.

3. The respondents in their counter have raised a plea of plurality of remedies asked for, and they ^{have} also challenged certain factual assertions which need not be noticed here. According to the respondents the applicant committed theft of a complete BC post on 23.1.1986 and sold the same to a

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villager of Gotamara. This was detected and he was asked to return the post. At that time he (the applicant) gave in writing to one Shri Kulamani Hota (the said writing is Annexure-R-1) that he would get the money and would return the BC post on 26.2.1986. As on 26.2.1986 the applicant did not return the post, Mr. Hota, his immediate superior Officer questioned him (the applicant) and the applicant stabbed Mr. Hota for which a criminal case was started. The respondents have filed copies of some instructions and circulars issued by the Director General, Posts and Telegraphs and they are Annexures-R-3 to R-5.

4. We have heard learned counsel for the applicant and Mr. Tahali Dalai, learned Addl. Standing Counsel (Central) for the respondents and perused the documents filed by the parties. It appears that the termination of service was on the date the F.I.R. was made and the Department purported to pass that order in exercise of the powers conferred under the Central Civil Services (Classification, Control & Appeal) Rules, 1965. Learned counsel for the applicant urges that once the Department resorted to initiation of criminal case, it was incumbent upon them to reinstate the applicant after conclusion of the criminal case and on the basis of the order of acquittal in favour of the applicant. Mr. Dalai, on the other hand has vehemently urged that in fact the real reason for dispensing with the employment of the applicant was that he admitted to have committed theft of a BC post belonging to the Department. Though we have some reservations about the applicability of C.C.S. (C.C.&A) Rules, 1965 to the casual workers,

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not much turns on it in view of the submission of learned counsel for the applicant and the other ground in the counter that the applicant's employment was terminated for some cause of dishonesty. It is found that the applicant was not given an opportunity to show that in fact he had not committed any theft though it appears to be the reason why the order of termination of employment was passed. It is an elementary principle of natural justice that before any adverse order is passed against a person, he should be heard even though his case may not come under any Departmental Rules. We are therefore of the opinion, that the applicant should be given an opportunity of being heard in the matter whether he committed the theft of B.C. post and whether that served as the basis for termination of the service of the applicant. If the applicant would be able to satisfy the Department that he had not committed any theft, the respondents may provide him with employment as and when his turn comes up. The enquiry be finalised within a period of three months from the date of receipt of a copy of this judgment.

5. This application is accordingly disposed of leaving the parties to bear their own costs.

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Vice-Chairman

[Signature] 16.7.90
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Member (Judicial)

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
July 16, 1990/Saranghi.

