

2

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK

Original Application No. 139 of 1990

Date of Decision: 13.7.1992

Bijaya Kumar Ray

Applicant

Versus

Union of India & Others

Respondents

For the applicant

M/s.S.K.Mohanty &
S.P.Mohanty,
Advocates

For the respondents

Mr.A.K.Mishra,
Standing Counsel
(Central Government)

...

C O R A M

THE HONOURABLE MR.K.P.ACHARYA, VICE-CHAIRMAN

AND

THE HONOURABLE MR.M.Y.PRIOLKAR, MEMBER (ADMN)

...

1. Whether the reporters of local newspapers may be allowed to see the judgment ? Yes
2. To be referred to reporters or not ? NO
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes

...

8

JUDGMENT

MR.K.P.ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash Annexure-1 by virtue of which the petitioner has been put off from duty (suspended).

2. Shortly stated the case of the petitioner is that while he was functioning as an Extra Departmental Delivery Agent in Tentulidihi Branch Office in account with Chandbali (L.S.G.) (Bhadrak), the petitioner was put off from duty with effect from 24.9.1988 on a contemplated proceeding against him. This application was filed on 2.4.1990 with a grievance that till date charge sheet was not delivered to the petitioner and unnecessarily the Demosles's ^{award} Showrd was made to hang over the head of the petitioner and therefore prayer was made in the application to quash the order passed by the authority placing the petitioner under suspension.

3. In their counter the opposite parties maintain that the suspension order should not be interefered with because there is a frima facie case against the petitioner for having misappropriated public funds. Hence according to the opposite parties the case being devoid of merit is liable to be dismissed.

4. We have heard Mr.S.P.Mohanty, learned counsel for the petitioner and Mr.A.K.Mishra, learned Standing Counsel appearing for the opposite parties.

5. Mr.S.P.Mohanty, learned counsel for the petitioner strenuously urged before us that the guidelines laid down for placing a particular E.D.D.A. under put off duty have been grossly violated thereby causing serious prejudice to

12

to the petitioner, especially in view of the considerable delay in submission of the chargesheet. Mr. Mohanty further submitted that delay in submission of chargesheet as late as 2nd May, 1990 clearly indicates mala fide and bias on the part of the disciplinary authority and therefore on this account the charge sheet should be quashed.

6. On the other hand it was submitted by Mr. A.K. Mishra, learned Standing Counsel that question of mala fide and bias can be made out or determined on the evidence adduced during the enquiry. Now it would be too premature on the part of the Bench to draw an adverse inference against the disciplinary authority without unimpeachable evidence to the above effect.


7. After hearing learned counsel for both sides, we are of opinion that there is substantial force in the contention of Mr. A.K. Mishra, learned Standing Counsel. The points urged by Mr. Mohanty are kept open to be reagitated at the appropriate time if any adverse order is passed against the petitioner resulting from the disciplinary proceeding, but for the present we do not feel inclined to express any opinion which may be prejudicial to the interest of both the parties. Hence all the questions mooted by Mr. Mohanty are kept open.

8. It was admitted before us that the chargesheet has been filed on 2.5.1990. It is reprehensible that the disciplinary authority took nearly two years to file a chargesheet completely violating and disrespecting the instructions issued by the Director General of Posts that the disciplinary proceeding should be disposed of within

120 days from the date of initiation of the proceeding. The deemed date of initiation of the proceeding is the date of filing of the chargesheet. Therefore we cannot appreciate the delay caused in this case. However we would direct that the disciplinary proceeding be disposed of positively within 120 days from the date of receipt of a copy of this judgment provided that the petitioner extends his cooperative hands. We would further direct the enquiring officer to maintain regular ordersheet and note the details ^{on} of the ordersheet ^{regarding} of the fact of the presence or absence of the petitioner on the dates of enquiry and the reasons for which the petitioner could not be present, so that in future no controversy would ^{not} arise.


9. It is still made clear that if the petitioner non-cooperates with the expeditious disposal of the proceeding, the department cannot be blamed and such dates of adjournments sought by the petitioner, if any, shall be added to the period of 120 days. If the petitioner fully cooperates and the proceeding is not disposed of within 120 days, then the Bench would think of quashing the same

10. In the facts and circumstances stated above we do not feel inclined to interfere with the order passed under Annexure-1 putting ^{off} the petitioner from duty subject to the observations made above regarding expeditious disposal of the proceeding. Thus the case stands dismissed leaving the parties to bear their own costs.


MEMBER (ADMINISTRATIVE)

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 14th July, 1992 B. Sahoo




14.7.92
VICE-CHAIRMAN