

(5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK

Original Application No. 214 of 1990

DATE OF DECISION: 24.6.1993

Mahadeb Harpal

Applicant (s)

Versus

Union of India & Others

Respondent (s)

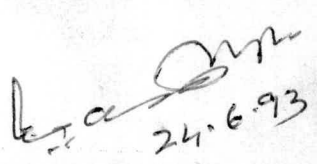
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(For Instructions)

1. Whether it be referred to the Reporter or not ? *ND*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *ND*


MEMBER (ADMINISTRATIVE)

24 JUN 93


VICE-CHAIRMAN

(6)

JUDGMENT

MR.K.P.ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash Annexures-2 and 3 and order reinstatement of the petitioner with all back wages.

2. Shortly stated the case of the petitioner is that while he was working as Extra Departmental Packer in Bolangir Head Post Office, by an order dated 18.2.1986 contained in Annexure-2, the petitioner was informed that an enquiry against him is under progress, and therefore, he was put off from duty with effect from 28.2.1986. Vide Memo No.4-1085-86 dated 24.4.1987, the petitioner was served with a chargesheet under Rule-8 of the service rules for Extra Departmental Staff in the Postal Department. According to the petitioner, the enquiry started vide Annexure-3 is still pending. Therefore, this application has been filed with the aforesaid prayer.

3. In their counter, the opposite parties maintain that on 31.8.1989, a report was received from the Central Bureau of Investigation alleging several irregularities - illegalities and fraud having been committed by the petitioner in respect of public money which was to be deposited into the account of several operators; and therefore, a fresh chargesheet was submitted to the petitioner on 31.1.1989 and this proceeding is going on. It is further maintained by the opposite parties that after receipt of the report of C.B.I., the first chargesheet delivered to the petitioner contained in Annexure-3 has since been dropped because of the second chargesheet having been filed.

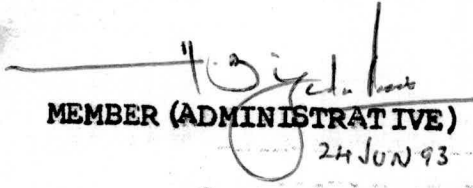
4. We have heard Mr.S.P.Mohanty, learned counsel for the

petitioner and Mr. Aswini Kumar Mishra, learned Standing Counsel.

8. Since the opposite parties categorically state that the first chargesheet has since been dropped (which is sought to be quashed) no further order is warranted under the law to be passed on the prayer of the petitioner for quashing the proceeding, because, such proceeding is non-existent in the eye of law. Therefore, in our opinion, the prayer of the petitioner to quash the disciplinary proceeding under Rule-8 has become infructuous. Mr. Mohanty further submitted that since the first chargesheet has been quashed, the petitioner is entitled to pray before the Court that the order putting off the petitioner from duty be quashed and the petitioner be reinstated into service with full backwages. Since a second chargesheet has been filed and the proceeding is pending, we do not like to allow this prayer of the petitioner. Result of the second proceeding will govern future service benefits of the application. Though, in this case, the second proceeding is not the subject matter, but we would direct that inquiry proceeding, if still pending, in respect of the chargesheet dated 31.1.1989, be disposed of within 120 days from the date of receipt of a copy of this judgment. If it has already been disposed of, this order has become ineffective. The enquiry proceeding should be disposed of within 120 days provided that the petitioner cooperates. In case the petitioner remains absent, or takes adjournment on any other occasion, such period will be added to the period

of 120 days.

6. Thus the application is accordingly disposed of leaving the parties to bear their own cost.


MEMBER (ADMINISTRATIVE)

24 JUN 93


VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 24.6.1993/ B.K.Sahoo