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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

Original Application No. 277 of 1990

Date of Decision: 4.11.1992

M.D.Samal

Applicant

Versus

Union of India & Others

Respondents

For the applicant

Mr.G.A.R.Dora,  
Advocate

For the respondents

Mr.B.Pal  
Standing Counsel  
(Rly.Administration)

...

C O R A M:

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

AND

THE HONOURABLE MR.K.J.RAMAN, MEMBER (ADMINISTRATIVE)

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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

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JUDGMENT

MR.K.P.ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash the disciplinary proceeding initiated against him contained in Annexure-4 and give a declaration that the impugned proceeding is not sustainable.

2. Shortly stated the case of the petitioner is that he was serving as a Divisional Engineer and after his retirement on superannuation with effect from 31.5.1989, a disciplinary proceeding has been initiated on an allegation that he had committed certain ~~gross~~ irregularities and did not care to check the challans and special returns before recording measurement for supply of 50 mm. size stone ballast by a particular farm and he had recorded false measurement and the amount which was drawn up in a bill was Rs.201953.63. The petitioner has been called upon to answer the charge. At this stage this application has been filed to quash the proceeding.

3. In their counter the opposite parties maintain that there is no illegality committed by the opposite parties in initiating the proceeding which is legally tenable and sustainable and therefore at this stage the proceeding should not be quashed.

4. We have heard Mr.G.A.R.Dora, learned counsel for the petitioner and Mr.B.Pal, learned Sr.Standing Counsel for the Railway Administration.

5. Mr.Dora urged before us that according to rules unless a pecuniary loss is caused <sup>to</sup> with the Government, no proceeding is maintainable after retirement and in support

whereof Mr.Dora relied upon a judgment of the Madras Bench

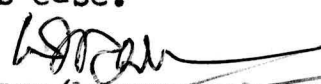
reported in 1987 (3) All India Services Law Journal 123 arises out of Madras (K.V. Subramanyan vs. Assistant Director (E.S.H.) Post Master General's Office Madras and two others. He also relied upon a judgment of the Kerala High Court reported in A.I.R. 1979 Kerala 135 (R.P. Nair and another vs. Kerala State Electricity Board and others). Both these cases mentioned above <sup>have</sup> been taken notice of by a Full Bench of the Central Administrative Tribunal reported in A.T.R. 1988 (2) C.A.T. 637 = 1988 (4) All India Services Law Journal 1023 (Amrit Singh vs. Union of India & Others). After considering a plethora of judicial pronouncement including the cases mentioned above, the Full Bench came to following conclusion: "Even if no loss is occasioned to the Government by <sup>due</sup> ~~claimed~~ to misconduct or negligence of the public servant, but <sup>if</sup> the pensionary is found guilty of gross misconduct and negligence during the period of his service, part of pension whether permanently or for a specific period may be ordered to be withheld or withdrawn".

By this opinion expressed by the Full Bench, the law laid down in the <sup>as said</sup> ~~case~~ by the Madras Bench in the case of K.V. Subramanyan (Supra) is ~~known~~ <sup>as</sup> a good law and we are bound by the Full Bench view. We would refrain ourselves <sup>from</sup> in expressing any opinion on the merits of ~~the case~~ <sup>on</sup> or any question of law, because it may embarrass either parties.

6. The disciplinary authority and the enquiry officer are completely free to arrive at their own independent conclusions, but at present we would not like to interfere in the matter by quashing the proceeding. We hope and

trust the proceeding will be disposed of within 120 days from the date of receipt of a copy of the judgment. Thus the application is accordingly disposed of leaving the parties to bear their own costs.

7. Send a copy of this judgment to the opposite parties and so also to the Chief Personnel Officer (G), Eastern Railway, Fairly Place, Calcutta for his information as submitted by Mr. B. Pal, learned Standing counsel, because the Chief Personnel Officer is not a party in this case.

  
MEMBER (ADMINISTRATIVE)

  
VICE-CHAIRMAN



Central Administrative Tribunal  
Cuttack Bench, Cuttack  
dated the 4.11.1992/ B.K.Sahoo