

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

Original Application No.282 of 1990.

Date of decision: 31-1-1992

Versus

Union of India and others ... Respondents.

For the applicants... M/s.C.V.Murty,
C.M.K.Murty,
S.Kr.Rath, Advocates.

For the respondents ... Mr. Ashok Mohanty,
Standing Counsel (Central)

Mr. Tahali Dalai,
Addl. Standing Counsel (Central).

C O R A M:

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

A N D

THE HONOURABLE MR. I. P. GUPTA, MEMBER (ADMN.)

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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.

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M. Bairagi and another ...

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Mr. Tahali Dalai,
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JUDGMENT

K.P.ACHARYA, V.C., In this application under section 19 of the Administrative Tribunals Act, 1985, the applicants pray to quash the charge-sheets contained in Annexures-6 & 7 and also the proceedings initiated on the basis of such charge-sheets.

2. Shortly stated, the case of the applicants (two in number) is that the applicant is at present working as Driver cum Pump operator in the Heavy water Plant, Talcher (Department of Atomic Energy). The applicant No. 2 is serving in the same organisation as Scientific Assistant (B) since 1982. It was alleged against the

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applicants that on 13.7.1987 while a meeting was being held in the Conference Hall presided over by Shri M.K.Saha, Works Manager, both the applicants along with some others entered into the Conference Hall and rebuked and threatened the Chairman, Shri Saha thereby misconducting themselves. Both these applicants were placed under suspension on a contemplated proceeding and ultimately a proceeding was drawn up against the applicants on the basis of the above mentioned allegations. An enquiry was conducted and after completion of enquiry the Enquiry Officer found that the charge framed against the applicants that they had left their work or their seat without permission was not proved and that the fact that the applicants entered into the Conference Hall and had rebuked and threatened the Chairman was partially proved. Copy of the enquiry report was delivered to the applicants and they were called upon to file their show cause and at this stage the applicants, without filing their show cause have come up before this Bench with the aforesaid prayer.

3. In their counter, the respondents maintained that it was premature on the part of the applicants to have rushed to the Court as no final order has been passed by the disciplinary authority. Hence, the application is to be dismissed in limine.

4. We have heard Mr.C.V.Murty, learned counsel for the applicant and Mr.Ashok Mohanty, learned Standing Counsel (Central) for the Central Government in the matter and also Mr.Tahali Dalai, learned Addl. Standing Counsel (Central)

5. It was submitted by Mr.C.V.Murty, learned counsel

for the applicants that the proceeding is liable to be quashed because the proceeding has been initiated by Mr. M. K. Saha who is not only the disciplinary authority of the applicants but also he is a witness to the occurrence. Serious prejudice has been caused to the applicants because the self-same person is discharging the function of a disciplinary authority though he is said to have personal knowledge regarding the alleged occurrence and in such circumstances the applicants will not receive justice from the disciplinary authority. According to Mr. Murty, law is well settled that a particular person cannot be the Judge of his own cause and in such circumstances, the proceeding should be quashed.

6. On the other hand, it was submitted by Mr. Ashok Mohanty, learned Standing Counsel (Central) that it was incumbent upon the applicants to submit their show cause and wait for the final orders. The final orders not having been passed in the present case, it was too premature on the part of the applicants to have rushed to the Court. It was therefore, submitted by Mr. Mohanty that the case should be dismissed.

7. We have given our anxious consideration to the arguments advanced at the Bar. We do not like to express any opinion on the questions of law and fact mooted at the Bar especially regarding the grievance of the applicants that Shri M. K. Saha cannot be the Judge of his own cause. Because of the order we propose to pass in this case, we are keeping all these questions open. Because expression of any opinion on these aspects

may adversely affect the interest of either parties.

8. We would therefore, remand this case and direct the disciplinary authority to pass orders according to law on the merits of the proceedings. We grant leave to the applicants to approach this Tribunal if so advised, in case any adverse orders are passed against them and the points raised on their behalf during the course of hearing of this case may be re-agitated.

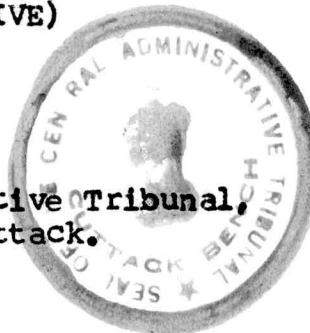
9. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

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H. L. N. B.
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MEMBER (ADMINISTRATIVE)

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B. S. S.
31.1.92

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VICE-CHAIRMAN



Central Administrative Tribunal,
Cuttack Bench, Cuttack.