

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK,

Original Application No. 346 of 1990.

Date of decision: 13.10.1992.

Chhotelal and another ... Applicants.
Versus
Union of India and others ... Respondents.
For the applicants ... M/s.D.S.Misra,
S.Behera, Advocates.
For the respondents ... Mr.D.N.Misra,
Standing Counsel (Railways)

R. A. M.

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

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THE HONOURABLE MR. C. S. PANDEY, 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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JUDGMENT

K.P.ACHARYA, In this application under section 19 of the Administrative Tribunals Act, 1985, the applicants(two in number) pray that the orders contained in Annexures-3 and 3(a) be quashed.

2. Shortly stated, the case of the applicants is that they were charge-sheeted under section 3 (a) of the Railway Property Unlawful Possession Act, 1966, and they stood their trial in the Court of the Sub-Divisional Judicial Magistrate, Panposh (Rourkela) in connection with 2(C)C.C.Case No.245 of 1985. The learned Magistrate by ~~his~~ judgment and order dated 3.8.1988 convicted both the accused(applicants in this original application) under section 3(a) of the Railway Property Unlawful Possession Act, 1966 and released both the accused persons under section 3 of the Probation of Offender's Act. The appeal preferred by the applicants ^{to} ~~in~~ the court of the learned Sessions Judge, Sundargarh did not yield any fruitful result. After giving due notice to both the applicants to show cause as to why they should not be removed from service and after perusing their show cause, both the applicants vide Annexure-3 and 3(a) respectively dated 6.7.1989 were removed from service though on 12.5.1989 revisional jurisdiction of the Hon'ble High Court of Orissa was invoked forming subject matter of Criminal Revision No.227 of 1989 which was admitted on 12.5.1989. Hence, this application has been filed with the aforesaid prayer for quashing Annexures-3 & 3(a) respectively.

3. In their counter, the respondents maintained that as per Rules in force, the applicants having been

convicted for offences involving their moral torpitude they have been rightly removed from service and their continuance in the Railway service will be detrimental to the interest of the Railway Administration and therefore, the impugned orders removing the applicants from service should be sustained.

4. We have heard Mr.D.S.Misra, learned counsel for the applicants and Mr.D.N.Misra, learned Standing Counsel (Railways) for the respondents on the merits of the case. There cannot be any second opinion that conviction under section 3(a) of the Railway Property Unlawful Possession ACT, 1966 involves moral torpitude. Since the matter is now pending determination by the Hon'ble High Court of Orissa we would not like to express any opinion on the merits of the case now forming subject matter of aforesaid criminal revision. But for the present, we would say that the decision of the Hon'ble High Court of Orissa should be awaited and the concerned authorities should act according to the decision of the Hon'ble High Court of Orissa. For the present, we find no merit in this application which stands dismissed leaving the parties to bear their own costs.

Choudhury
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MEMBER (ADMN.)

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13/10/92
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VICE-CHAIRMAN.

