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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO: 354 OF 1990

Date of decision : February, 20, 1991

Hari Shankar Acharya

: Applicants

Verus

Union of India and others

: Respondents

For the applicant

: M/s Devanand Misra,
Deepak Misra,
R.N.Naik, N.Deo,
B.S.Tripathy,
P.P.Panda,
Advocates.

For the Respondents

: Mr. A.K.Misra, Sr.
Standing Counsel
(Central)

C O R A M:

THE HONOURABLE MR. B.R.PATEL, VICE CHAIRMAN

AND

THE HONOURABLE MR. N.SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.

2. To be referred to the reporters or not? *yes*

3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

N. SENGUPTA, MEMBER (JUDICIAL), In this application the applicant while working as Extra Departmental Branch Post Master (E.D.B.P.M.) of Tampersara Branch Post Office in the district of Sambalpur was put off duty by the Inspector of Post Offices and this order of putting the applicant off duty was subsequently ratified as required under the Rules. The allegations of the applicant are that he was put off duty without proper basis and that the disciplinary proceeding has continued for a long time without being concluded. The applicant's further allegations are that even though he asked for a copy of preliminary report basing on which he was put off duty and the disciplinary proceeding ^{was} initiated, he has not been supplied with any such copy ~~by~~ ^{by} ~~the~~ ^{the} ~~malafide of~~ ^{malafide of} ~~he~~ ^{he} the Department is manifest. Today the applicant has filed a rejoinder in which he has stated that the defence assistant has not been relieved by the Department to assist him, but there being no time, the Department has not been able to file any written reply to the allegations made in the rejoinder but Mr. A.K. Misra learned Counsel for the Respondents has made his submissions on some instructions received by him from an officer of the Department. The Applicant has prayed for quashing the Disciplinary Proceeding.

*Not Excp
N.S.*

2. It is unnecessary to setout the averments in the written reply of the Respondents because the submissions made by Misra would indicate what the averments are.

3. We have heard Mr. J.N.Acharya learned Counsel for the applicant and Mr. A.K.Misra learned Senior Standing Counsel (CAT) for the Respondents. Mr. Acharya has very strenuously contended that pendency of the proceeding since June, 1990 till today is sufficiently long time so as to entitle the applicant to ask for quashing of the disciplinary proceeding. We are unable to subscribe to such a view because pendency of the proceeding from June, 1990 till February, 1991 can by no means be said to be long.

4. Mr. Acharya has contended that the denial of supply of a copy of the preliminary report to the applicant amounts to denial of a reasonable opportunity to the applicant to make out his defence. Once again we may say that this contention cannot be accepted because, unless the report is sought to be utilised as a basis for the conclusions to be reached in the Departmental proceeding, no copy of it may be supplied. Preliminary report is only meant for the Department to judge or decide whether it would be ^{the} wroth while to initiate a proceeding, it does not constitute evidence

*Recd by
Mr. N. N. Misra*

in the proceeding. Therefore, non-supply of a copy of such report in our opinion would not be denial of reasonable opportunity.

5. Next contention of Mr. Acharya is that the defence Assistant has not been relieved. In this regard, Mr. Misra has submitted that not that the Department has refused to relieve the defence assistant chosen by the applicant but as another person against whom a disciplinary proceeding has been initiated has also chosen that defence assistant to defend him in the proceeding against him, the Department has given the option to the defence assistant to choose as to whom he would defend. In view of this submission Mr. Misra ~~it~~ will be found that there has been no malafide on the part of the Department.

6. Having heard the learned Counsel we are of the opinion that the disciplinary proceeding should be finalised and disposed of within two months from the date of receipt of a copy of the judgment. We further direct that the applicant should present himself at the enquiry and cooperate on the dates fixed by the enquiry officer.

7. This case is accordingly disposed of. There would not order as to costs.

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VICE CHAIRMAN

Central Admin. Tribunal, Cuttack Beach/K. Mohanty



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Nar. Sagar
27/2/91
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MEMBER (JUDICIAL)