

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.45 of 1990.

Date of decision : August 10, 1990.

Gati Krushna Buda ... Applicant.

Versus

Union of India and other-s ... Respondents.

For the applicant ... M/s.Devanand Misra,
Deepak Misra,
R.N.Naik, A.Deo,
B.S.Tripathy, Advocates.

For the respondents ... Mr.P.N.Mohapatra
Addl. Standing Counsel (Central)

C O R A M :

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

A N D

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.

J U D G M E N T

B.R.PATEL, VICE-CHAIRMAN, The applicant is a Plane Tabler Grade II in the Office of the Officer in charge, 76 Party in the Directorate of Survey of India, Bhubaneswar. The departmental examination was held on 7th & 8th September, 1989 for the purpose of giving to the eligible departmental candidates promotion to the Surveyors' grade. The grievance of the applicant is that though he appeared in that examination his results have not yet been declared by the authorities and in January, 1990, Respondent No.3 informed him vide his

B. R. Patel

confidential letter dated 17.1.1990, copy of which is at Annexure-1 to the application, that it has been established by the Director, S.T.I., Hyderabad that he had copied the answers in Mathematics paper and that for this reason it has been decided to debar ^{him} for one year from appearing in the Limited Departmental Promotion Examination from Div. II to Surveyors' grade. This was the reason for not giving him any credit for the limited Departmental Promotion Examination held on 7th & 8th September, 1989. .

2. The respondents have maintained in their counter that the applicant has not exhausted all the available channels for redressal of his grievance and as such the provision of Section 20 of the Administrative Tribunals Act is a bar against the maintainability of this application. They have further averred that candidates appearing in the Limited Departmental Promotion Examination of Surveyors were warned that the candidates found copying or adopting malpractice would be liable to be debarred for one year from appearing in the said examination and also adverse entries will be made in their C.R. dossiers.

3. We have heard learned counsel for the applicant and Mr. P. N. Mohapatra, learned Additional Standing Counsel (Central) for the respondents and perused the papers. Learned counsel for the applicant contends that without giving any opportunity to the applicant of being heard the punishment has been imposed on him. According to him as the principle of natural justice has been violated the action of the Department in debarring him from

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appearing in the subsequent departmental examination for promotion cannot be sustained. Mr. Mohapatra on the other hand, has submitted that as the Department came to the conclusion after having undertaken necessary enquiry that the applicant indulged in malpractice punishment has been imposed on him. Unsettling the action of the Department would result in encouraging malpractice and action taken by the Department should not be interfered with.

4. After having heard learned counsel for the parties and having perused the documents we have come to the conclusion that the applicant should have been afforded an opportunity of being heard before imposing punishment. It is in violation of the principles of natural justice. We would therefore, direct that the applicant should be given an opportunity of being heard before coming to any conclusion about the allegation against him. The order dated 17.1.1990 vide Annexure-1 is hereby quashed.

5. This application is accordingly disposed of leaving the parties to bear their own costs.

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Member (Judicial)

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Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
August 10, 1990/Sarangi.

