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Central Administrative Tribunal,

Cuttack Bench: Cuttack.

Original Application No. 483 of 1990

Date of decision: July 16, 1992

Shri Gajaraj Sundar Ray Applicant

-Versus-

Union of India and others Respondents

For the Applicant M/s A.K. Misra,
S.K. Das,
S.B. Jena,
Advocates

For the Respondents Mr.A.K.Mohanty,
Sr.St.Counsel(Central)

C O R A M:

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

A N D

THE HONOURABLE MR. M.Y. PRIOLKAR, MEMBER (ADMINISTRATIVE)

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, V.C.

In this application under section 19 of the Administrative Tribunals Act, 1985, the Petitioner prays to quash the order of punishment contained in Annexure-4 imposing a punishment of removal from service. Equally, it is prayed to quash Annexure-6 which is the Appellate order.

2. The Petitioner while working as Relieving Commercial Clerk (L.R.) was served ^{with} ~~by~~ a chargesheet on an allegation that he had not vacated the quarters which had been allotted in favour of the Petitioner. Hence the proceeding was drawn up and the petitioner has been ordered to be removed from service. The appeal filed by the Petitioner did not yield any fruitful result on the merits of this case but the appellate authority modified the quantum of penalty to the extent of stoppage of increment for a period i.e. from the date of removal from service to the date of reinstatement to service will be regularised as leave due. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that the order of punishment passed against the petitioner is justifiable and should be sustained. Hence the case devoid of merit is liable to be dismissed.

4. We have heard Mr. Aswini Kumar Misra learned Counsel for the Petitioner and Mr. Ashok Mohanty learned Senior Standing Counsel (Central) for the Opposite Parties on the merits of this case.

5. Mr. Mohanty learned Standing Counsel raised a preliminary objection on the question of limitation and vehemently submitted that the application should be ~~in~~limine dismissed.

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on account of the fact that the case is grossly barred by limitation. We have given our anxious consideration to the arguments advanced at the Bar. We condoned the delay especially because the order of conviction is in gross violation of the law on the subject and the pronouncement of this Bench in several cases in the past. We do not feel it just and expedient in the interest of justice to allow the punishment to continue because the case is barred by limitation. The Hon'ble Supreme court in the case of Collector, Land Acquisition, Anantnag and another Vs. Mst. Katiji and others reported in AIR 1987 SC 1353 have been pleased to observe that "Every day's delay must be explained" Why not every hour's delay, every second's delay?. In the said judgment, Their Lordships have also held that a liberal view should be taken while considering the case of limitation instead of pedantic view. In such circumstances, we do hereby condone the delay. We have already held in several cases that non vacation of quarters does not amount to misconduct and therefore, the charge framed against the petitioner for having committed misconduct owing to non vacation of quarters is ^{inconceivable} ~~considerably~~ and the ^{charge} ~~enquiry~~ framed against the petitioner is not tenable. Therefore, the order of punishment is hereby quashed and the petitioner is exonerated from the charges.

6. Thus, the application stands allowed, leaving the parties to bear their own costs.

MEMBER (ADMINISTRATIVE)

Central Admn. Tribunal
Cuttack Bench/K. Mohanty
16.7.92



Handwritten signature
16.7.92

VICE CHAIRMAN