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CENTRAL ADMINISTRATIVE TRIBUNAL:  
CUTTACK BENCH: CUTTACK.

Original Application No. 426 of 1991.

Date of decision: November 3, 1992.

Subash Kumar Routray .... Applicant.

Versus,

Union of India and others .... Respondents.

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

For the Respondents: Mr. Ashok Kumar Misra,  
Sr. Standing Counsel (Central).

C O R A M :

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

A N D

THE HONOURABLE MR. K. J. RAMAN, MEMBER (ADMN.)

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1. Whether reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporters or not ? *yes*
3. Whether Their Lordships wish to see the fair copy of the Judgment ?

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JUDGMENT.

K.P.ACHARYA, V.C.,

In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash the disciplinary proceeding initiated against him.

2. Shortly stated, the case of the applicant is that while he was functioning as a Bindery Assistant, in the Postal Printing Press at Bhubaneswar certain allegations were levelled against him and a set of charges had been delivered. In the interim order it has been stated that the proceeding should continue but final orders should not be passed.

3. We have heard Mr. B.S.Tripathy, learned counsel for the applicant and Mr. Ashok Kumar Misra, learned Senior Standing Counsel(Central) for the respondents.

4. Mr.Tripathy heavily pressed onus that the proceeding should be quashed as a Criminal case under section 341/323/506 of the Indian Penal Code has been instituted against the applicant and therefore the proceeding should be stayed till the disposal of the criminal case. It was further more contended that because the applicant is the General Secretary of the trade union this proceeding has been initiated out of malice and grudge and therefore this proceeding should be quashed.

5. There is absolutely no document in this case to indicate that criminal case is pending except that this fact has been mentioned in the pleading. Of course in the original application criminal case number has been given as G.R.Case No.16 of 1991 pending in the

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court of the Sub-Divisional Judicial Magistrate, Bhubaneswar. Mere fact of mentioning the G.R.Case number does not prove that the charges are same in both the cases and that the Criminal Case is now pending. In view of this position, it is not possible to come to a conclusion that the charges are one and the same and the applicant may be prejudiced. In these circumstances, it cannot be conclusively said that the G.R.Case referred to above pertains to the overt act said to have been committed by the applicant on different dates forming subject matter of the disciplinary proceeding.

Mr. Aswini Kumar Misra, learned Senior Standing Counsel (Central) relied upon the observations of Their Lordships of the Supreme Court in a judgment reported in AIR 1988 SC 2118 (Kusheshwar Dubey vrs. M/s. Bharat Coking Coal Ltd. and others), wherein the decision of the Patna High Court was reversed. Their Lordships were pleased to observe as follows:-

"... While there could be no legal bar for simultaneous proceedings being taken, yet, there may be cases where it would be appropriate to defer disciplinary proceedings awaiting disposal of the criminal case. In the latter class of cases it would be open to the delinquent-employee to seek such an order of stay or injunction from the Court. Whether in the facts and circumstances of a particular case there should or should not be such simultaneity of the proceedings would then receive judicial consideration and the Court will decide in the given circumstances of a particular case as to whether the disciplinary proceedings should be interdicted, pending criminal trial. As we have already stated that it is neither possible nor advisable to evolve a hard

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and fast, straight-jacket formula valid for all cases and of general application without regard to the particularities of the individual situation."

So far as the individual situation prevalent in the present case is concerned, there is no nexus established between the G.R. Case and the present disciplinary proceeding. This Bench is unable to ascertain as to whether the charges are one and the same. Hence, it is not possible to determine whether any prejudice would be caused to the applicant. Therefore, in the peculiar facts and circumstances of the case we find no merit in this application which is disposed of accordingly. The proceeding should reach its finality within 60 days from the date of receipt of a copy of this judgment. There would be no order as to costs.

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MEMBER (ADMINISTRATIVE)

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VICE-CHAIRMAN.

Central Administrative Tribunal,  
Cuttack Bench, Cuttack  
November 3, 1992/Sarangi.



3/11/92