

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 462 of 1991

Date of Decision: September 23, 1993

M.Bairagi

Applicant(s)

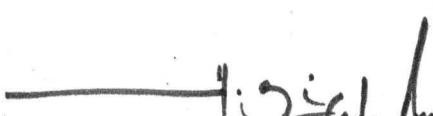
Versus

Union of India and others

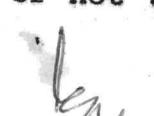
Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *ND*
2. Whether it be circulated to all the Benches
of the Central Administrative Tribunals or not ? *ND*


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

23 SEP 93


23/9/93
(K.P. ACHARYA)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO : 462 OF 1991

Date of decision September 23, 1993

Shri M. Bairagi Applicant

Versus

Union of India & Others Respondents

For the Applicant M/s .Q.V.Murty, C.M.K.Murty,
S.K.Rath, Advocates

For the Respondents Mr. Ashok Misra,
Senior Standing Counsel
(Central)

C O R A M :

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

A N D

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

JUDGMENT

K. P. ACHARYA, V.C.

In this application under section 19 of the Administrative Tribunals Act, 1986, the petitioner prays to quash the order of punishment passed in this case contained in Annexure 3 and the appellate order contained in Annexure 4 directing steppage of one increment of the petitioner for a period of one year without cumulative effect.

2. Shortly stated the case of the petitioner is that while he was under the employment of the General Manager, Department of Atomic Energy, Heavy Water Plant at Talcher, a disciplinary proceeding was initiated against the petitioner on an allegation that the

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petitioner entered into the conference hall and grossly misbehaved with the General Manager Shri M.K.Saha. A fullfledged enquiry was conducted and the petitioner has been punished as stated above and the appeal preferred by him to the appellate authority not having yielded any fruitful result, ^{ed} _{in} this application has been filed with the aforesaid prayer.

3. In their counter, the opposite parties maintain that there is overwhelming evidence on the side of the prosecution to bring home the charge against the delinquent officer and principles of natural justice having been strictly followed, the case being devoid of merit is liable to be dismissed.

4. We have heard Mr.C.M.K.Murty learned counsel for the petitioner and Mr.Ashok Misra learned Senior Standing Counsel (Central). We do not like to express any opinion on the culpability of the petitioner because of the order we propose to pass in this case. The initial objection raised by the petitioner's counsel is that the order of punishment is liable to be quashed because the General Manager who is the disciplinary authority is the victim in this case and has necessarily deposed in the disciplinary proceeding and the settled position of law being that a man cannot be the judge of his own cause, the punishment is liable to be quashed. In the case of UNION OF INDIA V. TULSIRAM PATEL REPORTED IN AIR 1985 S.C. 1416, Their Lordships have observed that

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a man cannot be the judge of his own case and the principle 'AUDI ALTERAM PARTEM' should be followed in a strictest term. Of course this point was argued on behalf of the same petitioner in Original Application No. 282 of 1990 which was disposed of on 31st January, 1992. We had kept this question open and today we are of opinion that there has been a gross violation of principles of natural justice because a man cannot be the judge of his own cause. Therefore, we would hereby quash the order of punishment imposed on the petitioner and remand the case with a direction that the competent authority may appoint a disciplinary authority for the purpose of this case alone and charges, if any, should be framed against the petitioner by such disciplinary authority and thereafter the matter should proceed and be disposed of according to law within 120 days from the date of receipt of a copy of the judgment. We express no opinion on the other contentions of Mr. Murty because it may create some embarrassment to all concerned.

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

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MEMBER (ADMINISTRATIVE)
23 SEP 93

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23.9.93
VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty/
23rd September, 1993.

