

CE NTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.500 of 1991

Date of decision : May 27, 1993.

Biraja Prasad Mishra ... Applicant.
Versus
Union of India and others ... Respondents.

For the applicant ... Mr. Antaryami Rath,
Advocate.

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

CORAM:

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

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THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADM N.)

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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 applicant prays to quash the disciplinary proceeding initiated against him.

2. Shortly stated, the case of the applicant is that while he was serving as a Superintendent, Central Excise and Customs, certain articles of charges were brought home against the applicant namely the applicant had delayed submission of certain documents seized in connection with enquiry and that the applicant has submitted false medical bills for the years 1988-89, 1989-90 and the third charge was that the applicant had addressed certain letters to higher authorities in which the applicant has used certain languages by which he has exhibited insubordination etc. The applicant has retired with effect from 30th July, 1992. Now, the applicant wants that the charges should be quashed.

3. In their counter, the respondents maintained that in no circumstances, the proceedings should be quashed because there is overwhelming evidence against the applicant. Being aware of overwhelming evidence the petitioner has used this subterfuge to get the charges quashed.

4. We have heard Mr. Antaryami Rath, learned counsel for the applicant and Mr. P. N. Mohapatra, learned Additional Standing Counsel (Central) for the respondents. Vide order dated 24.12.1991 this Bench directed that the proceeding should continue but the final orders shall not be passed by the disciplinary authority.

5. After giving our anxious consideration to the

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arguments advanced at the Bar, we do not feel inclined to quash the disciplinary proceeding because the charges framed against the applicant involve evidence to be adduced during the disciplinary enquiry and on questions of facts the enquiry Officer and the disciplinary authority would come to ^{His} the conclusion. We cannot at this stage step into the shoes of the enquiry Officer and the disciplinary authority and assess the questions of facts. Therefore, we do not feel inclined to quash the disciplinary proceeding - rather we would say that it should be expeditiously disposed of. We would commend to the Collector, Central Excises & Customs that he should issue appropriate orders to the enquiry Officer that he should complete the enquiry within 60 (sixty) days from the date of receipt of a copy of this judgment by the Collector, Central Excises & Customs and submit his report ^{and} within 30 (thirty) days therefrom the Disciplinary authority must pass final orders. This is subject to the condition that the applicant will cooperate with the expeditious disposal of the disciplinary proceeding. In case the applicant remains absent on any day then it shall be specifically recorded in the ordersheet and the days of absence of the applicant shall be deducted from the abovementioned stipulated period. We further direct that the enquiry officer must hold day to day trial and expedite submission of enquiry report.

6. Thus, this application is accordingly
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disposed of leaving the parties to bear their own costs. Stay order stands automatically vacated.

MEMBER (ADMN)

VICE-CHAIRMAN.

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
May 27, 1993/ Sarangi.

