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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH CUTTACK

Original Application No. 73 of 1991

Date of Decision: 22.4.1994

Bhagirathi Behera

Applicant(s)

Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

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

1994  
MEMBER (ADMINISTRATIVE)  
22 APR 94

*22-4-94*  
VICE-CHAIRMAN

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH CUTTACK**

Original Application No. 73 of 1991

Date of Decision: 22.4.1994

vs.

Union of India & Others Respondents

For the applicant M/s. M.R. Panda  
S.P. Shahu  
D.K. Pani,  
Advocates

For the respondents 1 Mr. Akhaya Kumar Mishra  
Addl. Standing Counsel,  
Central

For the respondents 2 & 3 **Mr.K.C.Mohanty,**  
**Govt.Advocate**  
**(State of Orissa)**

C O R A M:

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

AND

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

## JUDGMENT

MR .K.P .ACHARYA, VICE-CHAIRMAN: Petitioner is a Member of the Indian Forest Service. On 12th May, 1988, a set of charges were delivered to the petitioner Shri Bhagirathi Behera containing certain allegations of misconduct committed by him. An enquiry was conducted and the grievance of the petitioner is that as yet no final orders have been passed by the disciplinary authority. Hence this application has been filed with the aforesaid prayer.

2. In their counter the opposite parties maintain that grave and serious charges have been levelled

against the petitioner, and therefore, it would be against all norms to quash the proceeding. Hence it is maintained by the opposite parties that the prayer of the petitioner being devoid of merit is liable to be dismissed.

3. We have heard Mr. M.R. Panda, learned counsel for the petitioner and Mr. K.C. Mohanty, learned Government Advocate for the State of Orissa and so also Mr. Akhaya Kumar Mishra, learned Additional Standing Counsel, appearing for the Central Government.

4. Dr. Panda vehemently pressed before us that the proceeding should be quashed, because the petitioner has been made to suffer to a great extent from the last six years. The proceeding not having been finally disposed, promotional prospects of the petitioner has been considerably hampered and the petitioner has been suffering from irreparable loss and injury. On the other hand Mr. K.C. Mohanty, learned Government Advocate for the State of Orissa and Mr. Akhaya Kumar Mishra, learned Addl. Standing Counsel for the Central Government contended that the part to be played by the State Government has been long finished. The matter has been sent to the Union Public Service Commission for its opinion as required under the law since the petitioner is a Member of the Indian Forest Service. According to them, there exists no laches on the part of either the Government of India or the State Government, and therefore, in no circumstances the proceeding should be quashed.

5. Previously the Bench had passed orders directing

the respondents that the proceedings should be expeditiously disposed of. We find that these directions have been observed on the side of the Bench than compliance. Despite non-compliance of the orders of this Bench, it is our cardinal duty to focus our attention that keeping in view the charges framed against the petitioner, should it be allowed to be quashed? Equally the Court has a duty to see that the Democlace Sword is not made to hang on the delinquent officer for eternity. Within a particular reasonable time the Democlace Sword must either fall on the head of the delinquent officer or it should be completely removed. It is against all canons of justice, equity and fair-play to make the Democlace Sword to hang on the head of the delinquent officer for a long time. Therefore, keeping in view the aforesaid facts and circumstances, we do not feel inclined to quash the proceedings right now. We would prefer to give another opportunity both to the State Government and the Central Government to take effective steps to expeditiously dispose of the proceedings. We cannot give any direction to the U.P.S.C., because U.P.S.C. is not a party before us. It is for both the Government to send copies of the judgments to U.P.S.C. and get the matter expedited if the matter is still pending with the U.P.S.C. Therefore, under the circumstances stated above, we would direct that the proceedings

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must be finally disposed of within 90 (Ninety) days from the date of receipt of a copy of the judgment by OP Nos. 1 and 2, failing which the proceeding is deemed to have been quashed. Thus the application is accordingly disposed of. No costs.

T. S. J. M.  
MEMBER (ADMINISTRATIVE)  
22 APR 94

K. S. S. M.  
22-4-94  
VICE-CHAIRMAN

Central Administrative Tribunal  
Cuttack Bench Cuttack  
dated the 22.4.1994/ B.K.Sahoo

(241)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH CUTTACK

Misc. Application No. 228 of 1994

Arising out of O.A. No. 73/1991

Date of Decision: 22.4.1994

Bhagirathi Behera

Applicant(s)

Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? NO

2. Whether it be circulated to all the Benches of the  
Central Administrative Tribunals or not ? NO

1.5.1.1  
MEMBER (ADMINISTRATIVE)

22 APR 94

KM 22.4.94  
VICE-CHAIRMAN

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH CUTTACK**

Misc. Application No.228 of 1994  
Arising out of C.A.No.73/1991

Date of Decision: 22.4.1994

Bhagirathi Behera

**Applicant**

## Versus

Union of India & Others

## Respondents

For the applicant

M/s . M.R . Panda  
S.P.Sahu  
D.K.Pani,  
Advocates

For the respondent 1

Mr. Akhaya Mishra  
Addl. Standing Counsel (Central)

For the respondents 2 and 3

Mr. K. C. Mohanty,  
Govt. Advocate (Orissa)

C O R A M:

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

AND

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

## JUDGMENT

MR .K.P .ACHARYA, VICE-CHAIRMAN: At the close of the argument Mr. Panda urged before us to give a direction to the opposite parties that the juniors of the applicant who may be given promotion over his head should not be higher authorities of the petitioner. We are unable to give any specific direction on this prayer of the petitioner. But we hope and trust the Government will take into consideration this matter and from fairness point of view necessary orders will be passed by the Government. Thus the Misc.application is accordingly disposed of. No costs. O.M

MEMBER (ADMINISTRATIVE)

**VICE-CHAIRMAN**

22 APR 94 Central Administrative Tribunal  
Cuttack Bench Cuttack  
dated the 22.4.1994/ B.K.Sahoo