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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Review application No. 12 of 1990.
Arising out of O.A. 343 of 1989.

Date of decision : April 30, 1990.

Sankarsan Ghose ... Applicant.

Versus

Union of India and others... Respondents.

For the applicant ... M/s. Devanand Misra
Deepak Misra,
B.S. Tripathy, Advocates.

For the respondents ... Mr. Aswini Kumar Misra,
Sr. Standing Counsel (CAT)

C O R A M:

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

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 His Lordship wishes to see the fair copy of the judgment? Yes.

JUDGMENT

N. SENGUPTA, MEMBER (J) In this application review of the judgment on 2.1.90 delivered by this Tribunal has been sought for.

2. The facts material for this application are that the applicant was working as an Extra-Departmental Agent and faced a departmental proceeding in which there were two heads of charge. It is unnecessary to refer to a previous application by the applicant. It would be sufficient to ^{state} show that in the previous application i.e.

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T.A.314 of 1986 direction was given to the respondents therein to give an opportunity to the applicant to examine his defence witnesses with regard to certain documents mentioned in that judgment and to complete the enquiry within 90 days from its commencement. After that an enquiry was made and the disciplinary authority found that three of the charges had already been proved in the previous enquiry and the official can be taken into task basing on the same. But however taking a lenient view, he ordered reinstatement of the applicant as Extra-Departmental Branch Postmaster, Murunia from which post he had been removed and he further directed that the period of put off duty would be treated as non-duty for all purposes. In O.A.343 of 1989, judgment of which is sought to be reviewed the applicant prayed for a direction to the respondents to pay him (the applicant) back wages from the date he was put off duty till 15.3.1989, the date of reinstatement, and other relief to which the applicant would be found entitled to under law. During the course of hearing of that original application it was found that no copy of the enquiry report was given to the applicant before the punishment of removal was imposed, a direction was given to the respondents to give an opportunity of fresh hearing to the applicant and thereafter pass appropriate order.

Heard 20/4.

3. Heard Mr. Deepak Misra, learned counsel for the applicant and Mr. Aswini Kumar Misra, learned Senior Standing Counsel (CAT) for the respondents. During the

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hearing certain important facts could not be urged nor brought to the notice of the Tribunal and they relate to some matters of evidence and the ultimate expression of opinion by the disciplinary authority. It is submitted that by prolonging the enquiry more harm could be done to the applicant and it would serve no useful purpose by simply affording an opportunity of hearing. Since the scope of the O.A.343 of 1989 was ordinarily to be confined to the question whether the applicant could be found entitled to back wages or not, it was not much necessary to travel beyond it and in that sense it may be said that there was an omission to take into account the material fact or the circumstances. That gave ~~fresh~~ ground to review. In view of the clear language of Rule 9 of the E.D. Agents (Conduct & Service) Rules, and in view of the findings recorded, it is not a case where ~~not~~ willing to pay back wages by the disciplinary authority could be said to be wholly unjustified. In view of the matter, the judgment already delivered is reviewed and ~~however~~, the prayer for payment of back wages is rejected and to that extent the judgment already passed is recalled. There is no necessity, in view of the present circumstances to hold further enquiry.



M. S. S.
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Member (Judicial)