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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 201 OF 1992.

CUTTACK THIS THE 3RD DAY OF SEPTEMBER, 1998.

UMESH CHANDRA NAYAK.

....

APPLICANT.

-VERSUS-

UNION OF INDIA & OTHERS.

....

RESPONDENTS.

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No

G. NARASIMHAM
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN.
3-9-98

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 201 OF 1992

Cuttack this the 3rd day of September, 1993.

C O R A M :-

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL)

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Umesh Chandra Nayak,
S/O. Lalaji Nayak,
EDDA Gadaguda Branch Post Office,
AT/Po. Gadaguda (Via) G. Udayagiri,
Dist. Phulbani, Orissa.

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APPLICANT.

By legal Practitioner : Mr. R.N. Naik, Advocate.

- Versus -

1. Union of India represented by its Secretary
Department of Posts, Dak Bhawan, New Delhi.
2. Chief Postmaster General, Orissa Circle,
Bhubaneswar, Dist. Puri.
3. Superintendent of Post Offices,
Phulbani Division, Phulbani.
4. Assistant Superintendent of Post Offices,
Aska Division Aska Cum Adhoc Disciplinary
authority, At/Po. Aska Dist. Ganjam.
5. Sub Divisional Inspector Postal,
G. Udayagiri, At/Po. G. Udayagiri,
Dist. Phulbani.

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RESPONDENTS.

By legal practitioner : Mr. Ashok Mishra, Senior Counsel.
(Central).

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ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN:-

In this 1992 matter on the last occasion, learned counsel for the petitioner Mr. A. Deo submitted that the applicant has taken away the brief from him. In view of this, time was allowed to the applicant to make alternate arrangement and the matter was posted to to day for peremptory hearing. Today, at the time when the matter was called, the petitioner is absent nor has any counsel appeared on his behalf. We have also not received any request on behalf of the petitioner seeking adjournment. In this case pleadings have been completed long ago and therefore, in this 1992 matter, it is not possible to postpone the matter further. Therefore, the matter is taken up for consideration.

2. We have heard Shri Ashok Mishra, Senior counsel appearing for the respondents and have also perused the records.

3. In this application, under section 19 of the Administrative Tribunals Act, 1985, the petitioner has prayed that the punishment order issued to him in order dated 29.10.1991 (Annexure-5) debaring him from

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appearing in any departmental examination for a period of three years from the date of issue of the order should be quashed and a direction be issued to the Respondents to pay him the backwages by regularising the period of put off duty.

4. The short facts of this case are that the petitioner is working as Extra Departmental Delivery Agent at Gadaguda Branch Post Office. A proceeding under Rule-3 of ED Agents (Conduct & Service) Rules, 1964 was initiated against him in order dated 26.9.1988 at Annexure-1. The charge against him was that he has failed to deliver 38 (thirty eight) ordinary letters and one telegram, entrusted to him for delivery on different dates. The second charge is that while he was working in the post of Extra Departmental Delivery Agent, Gadaguda Branch Office, he failed to maintain the visit book of EDDA Gadaguda Branch Post Office from 24.11.1987 to 22.12.87. After the Departmental enquiry, the petitioner was removed from service. Against that order, he came before this Tribunal in Original Application No. 77 of 1990 which was disposed of in order dated 15-7-1991. The Tribunal quashed the order of removal and directed that a copy

J. Som

of the enquiry report should be supplied to the petitioner and the enquiry, if the Respondents, so desired, could be taken up afresh from that stage. Thereafter, copy of the enquiry report was supplied to the petitioner on 23.8.91. Applicant submitted a representation on 6.9.91 and after considering his representation, the impugned order of punishment dated 29.10.1991 was passed. Applicant preferred an appeal to Respondent No.3 on 19.11.1991. The appeal and petition is at Annexure-6. The petitioner submits that his appeal is still pending. Petitioner also states that in accordance with order dated 7.12.1991, at Annexure-7, the petitioner was ordered to be reinstated in service with immediate effect. He states that even though he was reinstated in service, during the intervening period, he has not been paid any allowance and that is how, he has come up in this Original Application with the aforesaid prayer.

5. It is submitted by Shri Ashok Mishra, learned Senior Standing Counsel appearing for the Respondents that the petitioner was a EDDA whose job is to deliver postal articles. The petitioner did not deliver 33 letters and one telegram which was entrusted to him for delivery. He has admitted his lapse in his statement dated 9.4.98 at Annexure-R/1. In view of this, initially he was removed

from service but after the order of removal was set aside and the disciplinary proceeding further continued after supplying a copy of the enquiry report to him, the Departmental Authorities took a lenient view considering his past service and also in order to give him a chance to continue in the department and therefore, it was ordered the applicant is debarred from appearing on any departmental examination for a period of three years. He was also ordered to be reinstated in service, but it was ordered that the period of put off duty, will be treated as such and he will not be entitled to any allowances during that period.

In view of the above, the Respondents have opposed the prayer of the petitioner.

6. We have considered the submissions made by the learned counsel appearing for the Respondents and have also perused the records.

7. As regards the first prayer of the petitioner, we find that this order of punishment was imposed on 29.10.91 and by this time, the period of three years are already over and therefore, the question of quashing the order of punishment does not arise. Therefore, we dispose of this petition with a direction that this punishment

should not be recorded in the record of the service of the petitioner and in case it has been recorded, the same should be removed within a period of 30 days from the date of receipt of a copy of this order since the punishment imposed on the petitioner is not available to be imposed, under the ED Agents (Conduct and Service) Rules, 1964.

8. As regards the second prayer of getting his regular allowance for the period during which he was put off duty and was removed from service till his reinstatement, we find that in the impugned order of punishment he has been found guilty and a punishment has been imposed and it has been specifically recorded that the period of put off duty will be treated as such and he will not be paid any allowances for this period. It is submitted by the learned Senior counsel Mr. Mishra, appearing for the Respondents that at the relevant time the circular dated 23.3.78 of DG Posts, which is at Annexure-R/4, which was in force and according to that circular, during the period of put off duty, ED Agents are not entitled to any allowance and therefore, in view of this, it is held that the prayer of the applicant in this regard is without any merit and hence rejected.

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9. In the result, the application is disposed of with the observations made in para-7 of the order.

There would be no order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN