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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 324 of 1993

Date of Decision: 6.9.1993

P.C. Sahoo

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

4.9.93
MEMBER (ADMINISTRATIVE)
06 SEP 93

6.9.93
VICE-CHAIRMAN

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(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 324 of 1992

Date of Decisions: 6.9.1993

P.C. Sahoo

Applicant

Versus

Union of India & Others

Respondents

For the applicant

M/s. S. K. Dash
Advocate

For the respondents

Mr. R. C. Rath
Mr. L. Mohapatra
Standing Counsel
(Rly. Administration)

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C O R A M:

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

AND

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

JUDGMENT

MR. K. P. ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash the disciplinary proceedings initiated against the petitioner on the basis of chargesheet dated 14.2.1991 contained in Annexure-3 and to direct the opposite parties to give promotion to the petitioner to the next higher grade with effect from 13.7.1988 entitling him to all consequential benefits and to award commercial rate of interest on the arrear salary, consequent upon such promotion to the higher grade with effect from 13.7.1988.

2. Shortly stated the case of the petitioner is that while he was serving as Enquiry-cum-Reservation Clerk

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a disciplinary proceeding was initiated against him on 14.2.1991 by framing two item of charges, out of which, the first item relating to taking of excess money than the prescribed amount for issuing tickets to certain passengers to enable them to travel, and the second charge is for allotting berths in different compartments. However, charge sheet dated 14.2.1991 was filed; and a fullfledged inquiry was held against the petitioner. This chargesheet is sought to be quashed along with other prayers mentioned above.

3. In their counter the opposite parties maintain that since the disciplinary proceeding was pending against the petitioner, the question of considering his case for promotion to the higher grade does not arise. Nothing has been stated in the counter in regard to the submission of enquiry report, because such enquiry report has been submitted after this petition was filed before this Court. It is therefore finally maintained by the opposite parties that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr.S.K.Dash, learned counsel for the petitioner and Mr.L.^{R.C. Rali} Mohapatra, learned Standing Counsel. Mr.Dash submitted that a copy of the enquiry report dated 7.12.1992 forwarded to him by the appropriate authority; in which the enquiry officer categorically stated in paragraph-6 of his report that Charge No. 1 has not been proved; and so also charge no.2 has not been established. Mr.Dash contended that in view of the opinion expressed by the enquiry officer, this Court should now quash the disciplinary proceedings. After hearing learned

counsel for both sides, we are of opinion that the aforesaid contention of Mr. Dash is devoid of merit. Law is well settled that a disciplinary may agree with the findings of the enquiring officer or may not. The disciplinary authority is free to take an independent view of any matter pending before him and is not bound by the view of the enquiring officer. By this, we do not mean to say that the disciplinary authority in the present case would take a view other than what has been taken by the Enquiring Officer. The disciplinary authority is required to strictly go by the evidence on record and we hope and trust that the disciplinary authority will not be influenced by any observations made by us in this case. In such circumstances, we would direct the disciplinary authority to pass the final orders in regard to the disciplinary proceedings pending against the petitioner within thirty days from the date of receipt of a copy of this judgment, if not already disposed of. In case the disciplinary authority does not pass any final orders within thirty days from the date of receipt of a copy of this judgment, then the proceeding is deemed to have been quashed. While disposing of the matter within thirty days, if the disciplinary authority comes to the conclusion that the petitioner is not guilty of the charges, then his case for promotion should be considered by the appropriate authority and he should be given promotion to next higher grade with effect from the date when his juniors were promoted and arrears financial emoluments due to such promotion should be given to the

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petitioner retrospectively. Thus the application is accordingly disposed of. No costs.

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MEMBER (ADMINISTRATIVE)

06 SEP 93

Regd. No. 6.9.93
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench Cuttack
dated 6.9.93/ B.K. Sahoo

