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13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 364 of 1992.

CUTTACK, this the 23<sup>rd</sup> day of March, 1999.

Tushar Kanta Chhotaray. ... 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.

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
23.3.99

*L. A. 23-3-99*  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application NO. 364 of 1992.

CUTTACK, this the 23<sup>rd</sup> day of March, 1999.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN  
A N D

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

....

Shri Tushar Kanta Chhotaray, aged about 34 years,  
Son of Shri Sarat Ch. Chhotaray, Postal Assistant,  
Koraput H.O., Village-Samantaraypur, Po/Ps.  
Bhubaneswar-2, at present At/Po. Koraput, Dist. Koraput.

... APPLICANT.

By legal Practitioner : M/s .S.K.Mohanty, S.P.Mohanty, Advocates.

-Versus-

1. Union of India represented by its  
Secretary, Department of Posts,  
Dak Bhawan, New Delhi.
2. Sr. Superintendent of Post Offices,  
Koraput Division, Jeypore,  
At/Po/Ps. Jeypore,  
Dist. Koraput.
3. Director of Postal Services,  
Office of the Postmaster General,  
Berhampur Region, Berhampur,  
At/Po/Ps. Berhampur, Dist. Ganjam.

... RESPONDENTS.

By legal practitioner : Mr. S. B. Jena, Additional Standing  
Counsel (Central).

....

MR. G. NARASIMHAM, MEMBER (JUDICIAL) :

Applicant, Tushar Kanta Chhotaray, while serving  
as Postal Assistant, Koraput Head Office, was convicted by the  
learned JMFC, Jeypore in GR Case No. 525/88 (TR No. 177/91) u/s.

409 IPC and sentenced to undergo RI for a period of one year  
through judgment dated 06-07-1992 on the allegation that from  
05-10-1987 to 09-03-1988, while serving as Sub Post Master in

Bidyadhar Sub Post Office, Jeypore, committed Criminal breach of Trust of Rs. 7,560/- in his capacity as Sub Post Master. After pronouncement of the Judgment by the learned JMFC, Jeypore(K), Respondent No.2 by order dated 22-07-1992, placed the applicant under suspension with immediate effect vide Annexure-1. On the same date, Respondent No.2 also issued a notice under Annexure-2, directing the applicant to appear before him on 7-8-1992 at 11.a.m. for enquiry and personal hearing on the aforesaid judgment. These facts are not in dispute.

2. Applicant, in this application filed on 3-8-92 seeks a direction to the Respondents not to take any action under Annexure-2, till disposal of the Crl. Appeal filed by him as against the judgment of the learned JMFC, Jeypore(K).

3. Respondents in their counter take the plea that the notice under Annexure-2 is a notice under Rule-19 of the CCS(CCA) Rules, 1965 and in view of the conviction and sentenced of imprisonment awarded against the applicant in a case of misappropriation of Govt. funds/money, enquiry under Annexure-R/2 can not be suspended in anticipation of the result of the Crl. appeal filed by him. Prayer for interim relief for stay of operation of notice under Annexure-2 has been disallowed by order dt. 3.8.92 with an observation that the result of this application would govern the future service benefits of the Applicant.

4. We have heard the learned counsels for both sides and perused the records.

5. It is true that Annexure-2 does not specifically

~~envisage~~<sup>reveal</sup> that it is a notice under Rule 19 of the CCS(CCA) Rules, 1965 but the applicant, himself, in his application stated that such notice appears to have been under rule 19 of the CCS(CCA) Rules, 1965. This being so, the question of he being prejudiced for not knowing for what purpose such notice was served on him does not arise. No authority has been cited on the side of the applicant that under such circumstances pending appeal against the judgment of conviction enquiry under Rule 19 has to be stayed. As such, we do not see any illegality or irregularity in issuing such notice under Annexure-2.

6. In the result, we do not find any merit in this application which is accordingly dismissed but in the circumstances, there shall be no order as to costs.

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
23.3.99

*(G. Narasimham)*  
(G. NARASIMHAM)  
MEMBER(JUDICIAL)  
23.3.99