

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 392 of 1992.

Date of decision : February 3, 1994.

Sukadeb Swain ... Applicant.

## Versus

Union of India and another ... Respondents.

( FOR INSTRUCTIONS )

1. Whether it be referred to the Reporters or not ? *No*
2. Whether it be circulated to all the Benches of the ~~ND~~ Central Administrative Tribunals or not ?

(H. RAJENDRA PRASAD)  
MEMBER (ADMINISTRATIVE)

03 FEB 94

(K. P. ACHARYA)  
VICE-CHAIRMAN.

(K. P. ACHARYA)  
VICE-CHAIRMAN

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Respondents.

For the applicant ...

Mr. S. K. Samantaray, Advocate.

For the respondents ...

Mr. D. N. Misra,  
Standing Counsel (Railways)

CORAM:

THE HON'BLE MR. K. P. ACHARYA, VICE-CHAIRMAN

A N D

THE HON'BLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

ORDER

K. P. ACHARYA, V.C., Shorn of unnecessary details, it would suffice to say that the applicant who was a Fitter-cum-Mechanic working under the South Eastern Railway was convicted under section 3(a) of the Railway Property (Unlawful Possession) Act, 1966 by the Additional Chief Judicial Magistrate, Rourkela. The applicant was convicted and sentenced to undergo Rigorous Imprisonment. The matter was carried in appeal to the Court of Sessions Judge and the learned Additional Sessions Judge confirmed the order of conviction. The matter is now pending before the Hon'ble High Court of Orissa in criminal revision No. 104 of 1992. Due to the order of conviction in the criminal case, the applicant has been dismissed from service. Hence, this application has been filed to

quash the order of dismissal.

2. Mr.D.N. Mishra, learned Standing Counsel (Railways) appearing for the respondents heavily pressed onus for an adjournment to file counter. Several adjournments had been given to the Railway Administration since 17.8.1992 to file counter. The respondents did not think it worthwhile to file counter inspite of lapse of two years. We therefore, did not feel inclined to accept the prayer of Mr.D.N. Misra and hence adjournment was refused.

3. We have heard Mr. Samantray, learned counsel for the applicant and Mr. D. N. Mishra, learned Standing Counsel (Railways) for the respondents.

4. Once there is a conviction of a Government servant in a criminal court involving moral torpitude, the concerned Government servant could be dismissed without any enquiry. But in the present case, an enquiry has been conducted by the disciplinary authority. This has admittedly ended in the conviction of the applicant and the disciplinary authority has passed maximum penalty. Since the applicant has already been convicted in a criminal case involving moral torpitude we do not find this as a fit case to interfere and hence, this case stands dismissed leaving the parties to bear their own costs.

..... MEMBER (ADMN.) 03 FEB 94

VICE-CHAIRMAN

Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
February 3, 1994/sarangi.