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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 445 OF 1992
Cuttack this the 8th day of February, 2000

Pravas Chandra Mohapatra

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? 451
2. Whether it be circulated to all the Benches of the No. Central Administrative Tribunal or not ?

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN



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

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 445 OF 1992
Cuttack this the 8th day of February, 2000

CORAM:


THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)
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Sri Pravas Chandra Mohapatra,
aged about 36 years, Son of Late
Brundaban Mohapatra of Muktipath
Street, Berhampur(Gm) PIN 760 001 - now
Inspector, Central Excise and Customs, Rayagada
Range-I, At/Po: Rayagada, District: Koraput
PIN 765 001

Applicant

By the Advocates : M/s.Antaryami Rath
A.C.Rath

-Versus-

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1. Union of India represented through the
Secretary to Government of India
Ministry of Finance Department of
Revenue, New Delhi-110001
 2. Collector, Central Excise and Customs
Rajaswa Vihar, Bhubaneswar
Post Box No.166
 3. Additional Collector (P&V) Central
Excise and Customs, Rajaswa Vihar
Bhubaneswar, Post Box No.166
 4. Assistant Collector,
Central Excise and Customs,
Sambalpur
 5. Superintendent, Central Excise
and Customs, Berhampur Range
Berhamur, District : Ganjam

Respondents

By the Advocates : Mr.A.K.Bose
Sr.Standing Counsel
(Central)

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ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL): Applicant, Pravas Chandra Mohapatra, Inspector of Central Excise and Customs, Rayagada Range, filed this application on 28.8.1992 with the following prayers.

- a) To quash the impugned orders dated 13.11.1990(Annexure-5) Memorandum dated 4.4.1991(Annexure-7) order dated 31.12.1991(Annexure-11) and the order dated 16.5.1992(Annexure-13). Besides, he also prays for direction on the respondents to sanction leave from 30.5.1990 to 28.11.1990 as due.

On 7.9.1992, this Tribunal passed interim order of stay of the punishment imposed by the disciplinary authority. On 13.1.1993, this order was made absolute till final disposal of this application.

2. Facts not in controversy are that while the applicant was serving at Berhampur, he was transferred in order dated 7.5.1990 to Rayagada Range-I vide Annexure-1. He did not join in the place of posting within the date as directed by the Department. Hence vide order dated 30.11.1990 under Annexure-5 he was placed under suspension in contemplation of initiation of disciplinary proceeding. By order dated 4.4.1991(Annexure-7) charges have been framed and served on the applicant on the ground that he failed to maintain discipline and devotion to duty and acted in a manner unbecoming of a Government servant inasmuch as he did not join his new place of posting. On his submitting written statement, an Enquiring Officer was appointed and the charges were enquired. Enquiring Officer submitted report under Annexure-9. On this report the applicant represented to the disciplinary authority on 14.10.1991 under Annexure-10. Through an elaborate order dated 31.12.1991 under Annexure-11, the disciplinary authority imposed



penalty of withholding one increment of pay of the applicant for a period of two years with cumulative effect and directed the unauthorised absence of the applicant from 29.5.1990 to 28.11.1990 to be treated as leave without pay and could not count for period of service. The applicant preferred appeal before the Collector, Central Excise and Customs, Bhubaneswar under Annexure-12. By Annexure-13 dated 16.5.1992, the appellate authority through an elaborate order rejected his appeal.

In this application under Para-5 it has been urged that order of suspension passed under Annexure-5 was bad as it was passed before he submitted his explanation under Annexure-6, and that the charge as framed was not sustainable in the eye of law.

In the counter the Department maintained their stand that no illegality or irregularity had been committed on any occasion in passing the suspension order, framing the charge and finalising the disciplinary proceeding, and therefore, they prayed for dismissal of this Original Application

No rejoinder has been filed by the applicant.

4. We have heard Shri Antaryami Rath, learned counsel for the applicant and Shri A.K.Bose, learned Senior Standing Counsel appearing for the respondents. Also perused the records.

The prayer for quashing the order of suspension issued under Annexure-5 on 13.11.1990 was no longer maintainable on 28.2.1992 when this Original Application was filed, because, the order of suspension had already worked out itself by virtue of finalisation of the disciplinary proceeding. Hence there is no merit in this



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prayer.

We also do not see any merit in the prayer for quashing the charges framed under Annexure-7 as the charge had already been enquired and the proceeding finalised. Moreover, the charge is very elaborate and contains all necessary factual aspects. We have not been apprised under what ground the charge framed was legally defective.

It is not the specific case of the applicant that principles of natural justice were violated to his prejudice by the Department while conducting the disciplinary proceeding. Law is well settled that a Court/Tribunal cannot reappraise the factual aspects dealt by the disciplinary authority unless the order of the disciplinary authority is based on no evidence. We have carefully gone through the enquiry report which is very elaborate and so also the order of the disciplinary authority under Annexure-11 consisting of eight typed pages. We do not come across any procedural lapse or irregularity in the impugned order of the disciplinary authority. Even the order of the appellate authority is very elaborate and had taken into record the grounds mentioned in the petition of the application. It also does not suffer from any legal infirmity.

5 In the result, we do not see any ground to interfere with the order of the disciplinary authority confirmed by the appellate authority. There being no merit in this application, the same is dismissed, but without any order as to costs.

Stay order passed stands vacated.

(SOMNATH SOM)
VICE-CHAIRMAN

B.K. SAHOO

(G. NARASIMHAM)
MEMBER (JUDICIAL)