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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 33 of 1992

Date of Decision: 21. 6. 1994

Sukadev Gochhayat

Applicant(s)

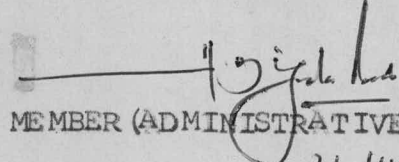
Versus

Union of India & Others

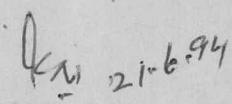
Respondent(s)

(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


MEMBER (ADMINISTRATIVE)

21 JUN 94


VICE-CHAIRMAN

(12)

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Versus

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Respondents

For the applicant

Mr. Antaryami Rath
Advocate

For the respondents

Mr. P.N. Mohapatra,
Standing Counsel
(Central)

C O R A M:

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

AND

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

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 order of punishment passed against the petitioner on 30.11.1991/5.11.1991 (contained in Annexure-1).

2. Shortly stated the case of the petitioner is that he is an Inspector of Central Excise and Customs. Allegation against the petitioner was that he was unauthorisedly absent from duty from 5.3.1989 to 2.4.1984. Hence the petitioner was called upon to explain the alleged misconduct and ultimately the disciplinary authority not being satisfied with the explanation offered by the petitioner passed order of punishment by holding that the period in question be treated as unauthorised absence and one increment be withheld for one year, which is sought to be quashed.



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(13)

3. In their counter the opposite parties maintain that the petitioner was actually unauthorisedly absent from duty, and therefore, rightly the disciplinary authority passed orders awarding punishment on the petitioner which should not be unsettled - rather it should be sustained. It is maintained that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. Antaryami Rath, learned counsel for the petitioner and Mr. P. N. Mohapatra, learned Standing Counsel appearing for the respondents.

5. From the record we find that the petitioner had not perhaps given necessary intimation though it was vehemently urged by Mr. Rath that he had given necessary intimation which had been brought to the notice of the disciplinary authority. We do not like to enter into a roaving enquiry on this matter. Conceding for the sake of argument that the petitioner had ^{not} ~~been~~ ^{kn} given necessary intimation to the authority during the period of his absence, a sympathetic view could be taken over the petitioner by allowing leave due to him at his credit for the said period. Mr. Mohapatra submitted that this aspect should be left to the appellate authority who is now in session of appeal preferred by the petitioner. Admittedly the appeal was filed by the petitioner in the year 1991 and this application was filed in 1992. Law is well settled ~~that~~ by expiry of a period of six months from the date of filing of the appeal, the appeal has become infructuous due to the fact that the original application

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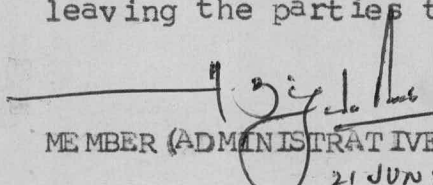


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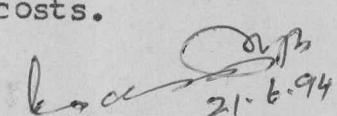
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has been filed by this Bench. Such being the situation for the ends of justice, we would direct that leave due to the petitioner for the period of unauthorised^{by} absence be granted in his favour and the order passed by the competent authority withholding increment for one year (Annexure-1) is hereby quashed. The emoluments to which the petitioner is entitled for the period of leave, be calculated and paid to him within 30 days from the date of receipt of a copy of this judgment. In case there is no leave ~~to~~ in the credit of the petitioner, the said period be treated as 'LEAVE WITHOUT PAY'.

6. Thus the application is accordingly disposed of leaving the parties to bear their own costs.


MEMBER (ADMINISTRATIVE)

21 JUN 94


VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 21.6.1994/ B.K.Sahoo

