

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.546 OF 1998  
Cuttack this the 28th day of September/2001

Rabindranath Sahoo ... Applicant(s)

-VERSUS-

Union of India & Others ... Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? Y.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

*S. N. S.*  
SOMNATH Sahoo  
VICE-CHAIRMAN  
28.9.2001

*28.9.01*  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.546 OF 1998  
Cuttack this the 28th day of September/2001

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN  
AND  
THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

...

Sri Rabindranath Sahoo aged about 47 years,  
S/o. Hadubandhu Sahoo, Ex-E.D.D.A., Panchirida  
B.O., Via-Sarankul S.O., Vill-Panchirida-Manapur  
P.S. - Sarankul, Dist-Nayagarh

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Applicant

By the Advocates

M/s.M.R.Mohapatra  
B.K.Nayak-3

-VERSUS-

1. Union of India represented through its Secretary to Govt. Department of Posts, India, New Delhi
2. The Post Master General, Orissa, At/PO/PS-Bhubaneswar, Dist-Khurda
3. The Senior Superintendent of Post Offices, Puri Division, Puri-752001
4. The Sub-Divisional Inspector (Postal), Nayagarh West Division, Nayagarh

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Respondents

By the Advocates

Mr.B.K.Nayak, A.S.C.

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O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL) : Applicant, Rabindranath Sahoo, who was appointed as Extra Departmental Delivery Agent on 30.7.1977, was placed under put off duty on 10.1.1990 vide Annexure-2. Thereafter on his conviction in I.C.C.Case No.10/89 under Sections 384/323 I.P.C. and sentence of six months' R/I, he was removed from service in order dated 8.5.1990 (Annexure-3). As against this conviction the applicant preferred appeal. The learned Addl.Sessions Judge, Puri, by his judgment dated 16.7.1996 (Annexure-1) set aside the conviction and sentence

of the learned Trial Court and acquitted the applicant.

Thereafter in spite of several correspondences the applicant has not been reinstated in service. Hence this application for his reinstatement with consequential financial benefits, like payment of backwages and so on.

2. In the counter while opposing his reinstatement, the Department do not deny that through order dated 8.5.1990 (Annexure-3) the applicant was removed from service because of his conviction in I.C.C. No.10/89 and that this conviction and sentence were set aside by the learned Addl. Sessions Judge, Puri by judgment dated 16.7.1996. Still they opposed reinstatement of the applicant on the ground that he was placed under put off duty because of his involvement in six more criminal proceedings of the years 1987 and 1989, besides his conviction in the aforesaid I.C.C. case. After his removal because of his conviction in I.C.C. case, he was ~~also~~ sentenced to fine of Rs.600/- in default R/I for 45 days vide judgment dated 18.11.1993 pronounced by the learned S.D.J.M., Nayagarh in G.R.Case No.24/1988. Because of this later conviction the Department did not think it fit to reinstate the applicant.

3. In the rejoinder the applicant annexed judgment of the learned Addl. Sessions Judge, Nayagarh, who on 24.5.2001, set aside the impugned judgment of the learned S.D.J.M., Nayagarh passed in G.R.Case No.24/88.

4. Heard the learned counsel of both sides.

Of the six cases mentioned at Page-3 of the counter, the sixth case i.e., G.R.Case No.24/88 has ended in acquittal the cases at the belated stage. Excepting under Sl. No.1, i.e. Misc.Case No.

No.360/89 U/S. 144 IPC and the case 1 CC Case No.62/97

U/S 143/379 IPC as mentioned under Sl. No.2, the other four cases mentioned under Sl.No.3 to 6 do not reveal their nature, without any corresponding provision of Cr.PC or I.P.C. It is doubtful that those cases of 1989 are still pending. At least there is no mention that the applicant has been penalised in any of those five cases.

5. The fact however, remains that the applicant was not removed from service because of his so called involvement in the six criminal cases, as mentioned at Page-3 of the counter, but for his conviction in 1 CC 10/89, which was set aside by the learned Appellate Court by its judgment dated 16.7.1996. In other words, his conviction by the learned Trial Court in that 1 CC case is non est under law. Consequently the applicant is to be reinstated in service w.e.f. 8.5.1990 with consequential financial benefits, like allowance during put off duty period w.e.f. the date instruction of the D.G.(Posts) in this regard was made applicable.

6. The question thereafter arises whether the put off duty order passed on 10.1.1990 by the Sub-divisional Inspector (Postal) (Res.No.4) vide Annexure-2 can still remain in force, more so when the order itself is conspicuously silent about his involvement in many criminal cases, as averred in the counter. We, therefore, direct the respondents to take a decision in the matter bearing in mind our observations made above.

7. In the result, we quash the removal order dated 8.5.1990 vide Annexure-3, with direction to departmental authorities to restore the service of the applicant forthwith. We also further direct the respondents to take a decision within a month from to day as to whether the applicant is still to continue under put off

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duty, in which case they shall pass a reasoned order and communicate the same to the applicant, in which event, liberty is given to the applicant to approach the Tribunal, if he feels aggrieved by the order to be passed by the respondents.

¶ The Original Application is allowed as per direction and observation made above, but without any order as to costs.

*Sonmath Som*  
(SONNATH SOM)  
VICE-CHAIRMAN  
28.9.2001

28.9.01  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

B.K.SAHOO//