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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH.

Original Application No.247 of 1993

Date of decision : January 24, 1995.

Gyanendra Prasad Tripathy ...

Applicant.

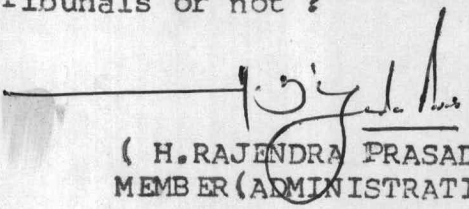
Versus

Union of India and others ...

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 No. Central Administrative Tribunals or not ?


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

24 JAN 95

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CENTRAL ADMINISTRATIVE TRIBUNAL
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CORAM:

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

...

Gyanendra Prasad Tripathy,
Asst. Audit Officer,
P & T Audit Office,
Barabati Stadium, Cuttack. .. Applicant.

By Advocates ... M/s. Dr.M.R.Panda,
D.K.Pani,
Mrs.M.K.Das,
M.K.Nayak.

Versus

1. Union of India, represented by
Deputy Comptroller and Auditor
General of India, 10, Bahadursah
Jafar Marg, New Delhi-110 002. ...
2. Director General of Audit,
P & T Office of the Principal
Director, P & T Audit,
Shamnath Marg, Delhi-54.
3. Deputy Director(HQ),
Office of principal Director of Audit,
P & T ,Shamnath Marg, Delhi.54.
4. Deputy Director,
P & T Audit Office, Calcutta,
7, Koilaghat Street, Calcutta-1.
5. Audit Officer,
P & T Audit Office,
Barabati Stadium, Cuttack. .. Respondents.

By Advocate ... Mr.Ashok Misra,
SrStanding Counsel(Central)

...

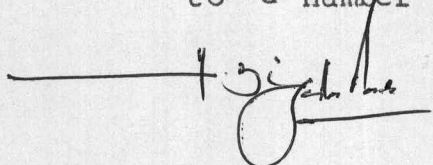
MR.H.RAJENDRA PRASAD, MEMBER (ADMN): Hheard Dr. M.R.Panda, learned counsel for the applicant and Mr.Ashok Mishra, learned Senior Standing Counsel (Central) for the respondents at great length.

2. The main grievances of the applicant are : -

(i) Certain essential instructions and procedures prescribed by the Department of Personnel & Training in the matter of writing of the confidential records have not been followed in the present case inasmuch as :

- a) vague and unspecified observations of adverse nature have been made;
- b) requisite counselling has not been done by the concerned authority in the areas where the performance of the applicant was found to be wanting, before making an adverse entry of definitive nature;
- c) instead of communicating the precise adverse entries and an extract or gist of those observations which may have been of a complimentary nature, a copy of the entire C.R. has been communicated;
- d) the names of the initiating officer as well as the reviewing officer have been withheld from the applicant;
- e) the remarks by way of review were made by an Officer who was no longer in service on the date when such review was made.

The learned counsel for the applicant drew my attention to a number of decisions given by the Hon'ble Supreme Court



as well as the Principal Bench of the Tribunal holding that any observations of adverse nature made by an authority who is no longer in service would amount to even malice and cannot be sustained.

3. It is seen from Annexure-8 to the application that the decision stated therein is ambiguous in so far as

there seems to be an inadvertant confusion between the expressions, 'appeal' and 'representation'. It is the specific submission of the applicant that he has duly submitted a representation as required by rules. Shri Ashok Mishra, learned Senior Standing Counsel (Central) drew my attention to the fact that one representation dated 23.1.1993 had not yet been disposed of, in November, 1993 when the counter was filed. He is not aware of the later development, if any, since he has not received any further instructions in the matter. In order to help the disposal of the said representation, as also to afford a reasonable consideration of the grievances of the applicant enumerated above, it is considered necessary to direct Respondent No.1 to dispose of the (pending) representation dated 23.1.1993 said to have been submitted by the applicant, within a month of the receipt of a copy of this order, if it has not been disposed of in the meanwhile. If the said representation is rejected hereafter, the same should be done by a speaking and reasoned order, after according due consideration to the issues raised by the applicant in paragraph 2 above. The applicant shall be free to agitate his grievance, if any, thereafter.

— 1. Singh

4. Thus, the O.A. is disposed of. No costs.

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(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

24 JAN 95

Sarangl.