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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 351 OF 1993.

CUTTACK, this the 21st day of October, 1993.

ASHOK KUMAR SAHOO.

.....

APPLICANT.

VRS.

UNION OF INDIA & OTHERS.

.....

RESPONDENTS.

(FOR INSTRUCTIONS)

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

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
21/10/93

21/10/93
(G. NARASIMHAM
MEMBER(JUDG.)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 351 OF 1993.
CUTTACK this the 21st day of October, 1998.

CORAM:-

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
A N D
THE HONOURABLE MR. G. NARASIMHAM, MEMBER(JUDICIAL).

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Shri Ashok Kumar Sahoo,
aged about 28 years,
S/o. Bhagirathi Sahoo,
Ex-E.D.D. A.-CUM-E.D. M.C.,
At/Po. Kandhanayagarh,
Via.Chandpur, Dist.Puri.

.... APPLICANT.

By legal Practitioner:- M/s. P. V. Ramdas, P. V. B. Rao, Advocates.

-VERSUS-

1. Union of India represented by the
Chief Postmaster General,
Orissa Circle, Bhubaneswar-1.
2. Senior Superintendent of Post Offices,
Puri Division, Puri-1.
3. Sub-Divisional Inspector(postal),
Balugaon, Sub Division, Balugaon,
Dist.Puri.
4. Mera Pradhan, aged about 30 years,
S/o. Bira Pradhan, E.D.D. A.
At/Po. Kandhanayagarh, Via. Chandpur,
Dist. Nayagarh.

RESPONDENTS.

By legal Practitioner:- Ashok Mishra, Senior Panel Counsel
(Res. Nos. 1 to 3) (Central).

By legal Practitioner:- Mr. Ganeswar Rath, and Mr. S. N. Mishra,
(Respondent No. 4). Advocates.

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O R D E R

MR. G. NARASIMHAM, MEMBER(JUDICIAL) :-

Applicant who was serving as E.D.D.A.-Cum-E.D.M.C. in Kandhanayagarh in account with Chandpur S.O. under Khurda H.O. has been removed from service vide order dated 29-7-1991 of Respondent No.3 (vide Annexure-A/3) in a disciplinary proceeding initiated by him. Out of the four charges, the Inquiring Officer, held charge No.4 has not been established. Other three charges having been established, a copy of the enquiry report was supplied to the applicant to show cause. Applicant represented against the show cause notice. Thereafter, the impugned order dated 29.7.1991 was passed. Applicant's appeal has been dismissed by the Respondent No.2 in order dated 30.3.1992 vide Annexure-A/4.

2. In this Original Application praying for quashing the order of removal from service and for re-instatement, the applicant mainly relied on three grounds, that is, that the Disciplinary Authority did not give due weightage to his representation while passing the order of removal; that the Inquiring Officer without waiting for the written brief from the applicant, submitted the enquiry report which in eye eye of law, can not be accepted and that ^{the} three charges have not been established.

In the counter, the stand of the Respondents

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is that there has been no procedural lapses or violation of natural justice during the enquiry or in passing the impugned order of removal from service. Their further plea is that the charges have ~~not~~ been established as per the materials ^{available} ~~explained~~ in the enquiry.

3. In view of the settled legal position that a Court or a Tribunal can not assume the role of the Appellate Authority while judging the action of the Disciplinary Authority, ~~The~~ evidence adduced during the enquiry can not be reopened for discussion as to whether the charges have been established. The matter is different if the Inquiring Officer or the Disciplinary Authority finds a delinquent guilty of the charges on the basis of no evidence which of course is not the case here.

There is ~~also~~ no force in the averment that the Inquiring Officer did not wait for the written brief of the petitioner and submitted the report contrary to law. The enquiry report which has been annexed by the applicant himself as Annexure-A/2 itself reveals that the last sitting of the enquiry was held on 10.9.90 and on that day, the Inquiring Officer requested both sides i.e. the Presenting Officer and the applicant to submit

written brief, if any, within five days positively. Though written brief from the Presenting Officer was received on 7-9-90, the applicant had not submitted his brief even till 10.9.1990 i.e. the date of submission of the report of the enquiry. This averment in the enquiry report, has not been denied by the applicant in his application. We therefore, assume the facts mentioned in the enquiry report as correct.

In fact these two grounds have not been seriously ~~contested~~ ^{pointed} by Shri P. V. Ramdas, learned counsel for the applicant.

4. Shri Ramdas, learned counsel for the Applicant vehemently ~~contested~~ that his representation submitted to the Disciplinary Authority, in response to the notice issued to him had not been duly considered by the Disciplinary Authority while passing the impugned order of removal. Shri Ashok Mishra, learned Senior Panel Counsel appearing for the Departmental Respondents, on the other hand contended that the impugned order in Annexure-A/3 is a speaking order and the grounds taken in the representation have been duly dealt therein. At this stage, we may observe that the applicant had not annexed a copy of the representation. Even his application is silent as to the specific grounds taken in his representation. On the other hand, para-4 of the impugned order discloses that he had taken five grounds in his representation. It is

not the case of the applicant even during the hearing that he had taken some more valid legal points other than this facts. In para-5 of the impugned order, the Disciplinary Authority had dealt all these points. As earlier stated, we are not sitting here in appeal to reappreciate the reasonings ~~for~~ discussion of the Disciplinary Authority. Only in case of violation of natural justice, causing serious prejudice to a delinquent, a court or a Tribunal can step in. Our discussion would reveal that there has been no such violation of natural justice.

5. For the reasons discussed above, we do not see any merit in this application which is dismissed, but without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 10.98

21.10.77
(G.NARASIMHAM)
MEMBER(JUDICIAL)