

4

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.37 OF 1993
Cuttack this the 26th day of March, 1999

(PRONOUNCED IN THE OPEN COURT)

Haribandhu Rout

Applicant(s)

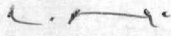
-Versus-

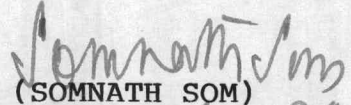
Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

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


(G.NARASIMHAM)
MEMBER(JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN
26.3.99

4

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.37 OF 1993
Cuttack this the 26th day of March, 1999

CORAM:

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

...

Haribandhu Rout, aged about 48 years,
Extra Departmental Branch Post Master,
Podamari Branch Post Office (under put off
duty) Via: Mahanga, District: Cuttack

...

Applicant

By the Advocates : M/s.Devanand Misra
R.N.Naik
A.Deo,
B.S.Tripathy,
P.Panda

-Versus-

1. Union of India represented through its
Secretary, in the department of Posts,
Dak Bhawan, New Delhi
2. Chief Post Master General,
Orissa Circle, Bhubaneswar
Dist: Puri
3. Superintendent of Post Offices
Cuttack North Division, Cuttack-753001

...

Respondents

By the Advocates : Mr.J.K.Nayak,
Addl.Standing Counsel
(Central)

...

J. Som -

2
ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the order putting him off duty from the post of Extra Departmental Branch Post Master, Padamari Branch Office.

On the date of admission of this application on 10.2.1993 the following observation was made by the Tribunal:

" The Opposite Parties should note that this application has been admitted for hearing only to examine the legality or otherwise regarding passing of the order of suspension (put off duty). The order admitting the case for hearing should not be construed as any restraint order in any manner issued to the Opposite Parties to give effect to the suspension order which if not served by now on the petitioner be immediately served".

This Original Application has ^{thus} been admitted for a limited purpose. ^{^ J. Som.}

2. The case of the applicant is that he was appointed as Extra Departmental Branch Post Master, Padamari Branch Office in account with Mahanga Sub-Office in order dated 23.12.1986. The applicant applied for leave and gave a substitute. But the Superintendent of Post Offices, Cuttack North Division (Res.3) directed him to handover charge immediately in order dated 23.9.1992 (Annexure-2). In this order it is mentioned that the applicant has been put off duty. It is submitted by the learned counsel for the petitioner that he ^{not} has been served any order indicating that he has been put off duty. It is also submitted that the applicant has been put off duty because he had been nominated as a Member of the Panchayat Samiti. In the context of the above, the applicant has come up in this application with the

J. Som.

prayers referred to earlier.

3. Respondents in their counter have pointed out that while ^{was} the applicant ~~the~~ working as E.D.B.P.M., Padamari Branch Office, one Shri B.P.Satpathy and others filed an allegation petition dated 7.5.1992 (nnexure-R/l) indicating that the applicant had contested the election for the Panchayat Samiti Member of Padamari Gram Panchayat held on 1.6.1992. Even after he got elected as Member of the said Pranchayat Samiti, he did not inform this fact to the Superintendent of Post Offices and it was felt that he had violated Rule-18 of E.D.Agents(Conduct & Service) Rules, 1964. It has been submitted by the respondents that on a further inquiry it was found that the applicant while working as Branch Post Master, remained in charge of Yarn Cloth and Cash of Society vide resolution dated 17.9.1981 of the Committee of Management of Basanti Weavers Co-operative Society. It is also stated that he had misappropriated an amount of Rs.95659.84 and thereby he had infringed Rule 23 of E.D.A. Conduct and Service Rules, 1964, and accordingly the applicant was put off duty. It has been further submitted by the respondents that the S.D.I.(P) was directed to serve the put off duty order on the applicant and accordingly S.D.I.(P), Salipur visited Padamari B.O. on 10.8.1992, and it was found that the office was closed and the applicant was absent. On the next visit of the S.D.I.(P) it was found that the applicant had proceeded ^{as} on leave providing substitute one Shri Akshaya Kumar Samal. It was also reported by the respondents that the applicant was actually present in the village on the date of visit of the S.D.I.(P) and he had instigaged the

S. Som.

villagers to humiliate S.D.I.(P) and threaten him. For this S.D.I.(P) lodged an F.I.R. against the villagers at Mahanga Police Station. Under the above circumstances leave applied for by the applicant was refused and the substitute was asked to hand over charge of the Padamari Branch Office to S.D.I.(P), Salipur immediately. But the substitute whose appointment was not approved by the department refused in writing to hand over the charge. The put off duty order was also sent to the applicant by Post, but it was returned without delivery with an endorsement that the he was long absent and has not yet resumed duty and his whereabouts was not known. On the above grounds the respondents have opposed the prayer of the applicant.

4. In this case learned counsel for the petitioner is absent when called nor any request has been made on his behalf seeking an adjournment. This is a 1993 matter where pleadings have been completed long ago. In view of this further adjournment cannot be allowed. ~~and~~ Accordingly, we have heard Shri J.K.Nayak, learned Addl.Standing Counsel appearing for the respondents and also perused the records.

5. From the pleadings of the parties it appears that on receipt of large number of allegations and because ^{of} ~~acts~~ of commissions and commissions ~~fault~~ on the part the applicant he has been put off duty in order dated 5.8.1992(Annexure-R/5). Learned Addl.Standing Counsel is not able to indicate whether the departmental proceeding initiated against the applicant has in the meantime been completed or if the applicant is

J. Sam.

continuing. In any case as earlier noted the limited issue on which the Original Application has been admitted is about legality of passing the put off duty order. In view of large number of allegations against the applicant and his several ~~acts~~ acts of omission and commission the departmental authorities have ^{rightly} proceeded against him departmentally. In such a case under the rules they are authorised to put the applicant off duty. Under the circumstances we find no reason to interfere in the order of put off duty. The Original Application is, therefore, held to be without any and the same is rejected, but without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

B.K. SAHOO

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
26.3.99