

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO:397 of 1993

Date of decision: June 23, 1994

Gopinath Tripathy ... Applicant
Versus
Union of India & 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 Central Administrative Tribunals or not? NO

4.5.1.1
(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

23 JUN 94.

K. P. ACHARYA
VICE- CHAIRMAN
23.6.94

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| Gopinath Tripathy | ... | Applicant |
| Union of India & Others | Versus | Respondents |
| For the Applicant | ... M/s. P.K. Chowdhury, S.Mohanty B.M. Pattanaik, Advocates | |
| For the Respondents | ... Mr. Ashok Misra, Senior Standing Counsel (Central) | |

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CORAM:

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN
AND
THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

....

JUDGMENT

K.P. ACHARYA, V.C.

In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash the impugned order of suspension contained in Annexure-1 dated 16th April, 1993.

2. Shorn of unnecessarily details, it would suffice to say that on 16th April, 1993 when the petitioner Shri Gopinath Tripathy was functioning as Director telecommunication was placed under suspension on a contemplated proceeding, contained in Annexure-1. Allegation against the petitioner was that, he had committed certain irregularities in the matter of purchase of certain commodities for the telecom Department which is said to have taken place in the year 1992. According to the petitioner (which was not disputed before us), he was transferred from the post of Deputy General Manager and was posted as
VN,

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Director because of the irregularities said to have been committed by him. On 16th April, 1993, the petitioner was suspended just a few days ago when he ^{before} retired on superannuation i.e. on 31st July, 1993. This case came up for admission on 30th July, 1993 in which a prayer was made to stay operation of Annexure-1 and vide order dated 30th July, 1993 we had refused to issue any interim orders. Hence this application is now being considered as to whether the suspension order should be cancelled which is the limited prayer of the petitioner.

3. In their counter, the Opposite Parties has been maintain that the order of suspension/ passed on 16th July, 1993 because the matter was under investigation and a proceeding was contemplated to be instituted against the petitioner. Therefore, the order of suspension was validly passed which should not be unsettled rather it should be sustained.

4. We have heard Mr. B.M. Patnaik learned ^{Senior} counsel appearing for the petitioner and Mr. Ashok Misra learned Senior Standing Counsel (Central) for the telecommunication Department i.e. for the Opposite Parties.

5. Mr. Patnaik learned counsel appearing for the petitioner submitted before us that since the petitioner has now retired on superannuation and there is absolutely no chance or scope for the petitioner to

interefere with the investigation or cause disappearance of any evidence, As chargesheet as already been filed and delivered to the petitioner, no fruitful purpose would be achieved by the Opposite Parties in making the order of suspension to hand on the head of the petitioner. Therefore, it is submitted by Mr. Patnaik that the order of suspension may be cancelled. Though Mr. Ashok Misra, Senior Standing Counsel (Central) submitted that the Department is trying to expeditiously dispose of the Departmental proceeding and the suspension order should remain in force, we find there is substantial force in the contention of Mr. Patnaik that there is no justification in making the democle's sword to hand over the head of the Petitioner. Therefore, the suspension order, contained in Annexure-1, is hereby quashed and it is directed that the disciplinary proceeding may continue and should be **expeditiously disposed of.**

6. It was next contended by Mr. Patnaik that a direction from the Bench to expeditiously dispose of the disciplinary proceeding, eventually mean that the the charges should not be drawn and the disciplinary proceeding should continue because the departmental authorities may feel to drop the charges. We have no objection if the departmental authorities feel that the charges could be dropped against the petitioner but in case the departmental authorities take a different view to the extent that the disciplinary proceeding should

continue - it should be expeditiously disposed of preferably within 90 days from the date of receipt of a copy of the judgment by holding day to day trial provided that the petitioner co-operates and in case the petitioner seeks any adjournment, the period of such adjournment would be deducted from the stipulated period mentioned above.

7. Thus, the Original application is accordingly disposed of leaving the parties to bear their own costs.

MEMBER (ADMINISTRATIVE)

23 JUN 94.

kgd 23.6.94
VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench/K.Mohanty/23.6.94.