

6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 214 OF 1994.
Cuttack, this the 30th day of June, 2000.

S. P. J. SWAMY.

....

APPLICANT.

VRS.

UNION OF INDIA & ORS.

....

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**.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHIEF
30.6.2000

2

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 214 of 1994.
Cuttack, this the 30th day of June, 2000.

C O R A M;

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
A N D

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDL.).

..

SHRI S.P.J. SWAMY,
S/o.

At. Or. No. 2R/140,
Aviation Research Centre,
Charbatia,
PO/PS: Choudwar, Dist. Cuttack.

....

Applicant.

By legal practitioner: M/s. S.K. Ratha, P.K. Nayak, P.K. Chand,
G. Muduli, Advocates.

-Versus-

1. Union of India represented through Ministry
of Civil Aviation Union Secretariat,
New Delhi.

2. Director,
Civil Aviation Centre,
Directorate General of Security
(Cabinet Secretariat,),
Block-V (East), RK Puram,
New Delhi-55.

3. Deputy Director, Aviation Research Centre,
Government of India, PO: Charbatia,
Dist: Cuttack (Orissa) PIN-28.

...

Respondents.

By legal practitioner: Mr. U.B. Mohapatra,
Addl. Standing Counsel.

.....

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

S Som
In this Original Application, u/s. 19 of the
Administrative Tribunals Act, 1935, the applicant, who is a
Head Mali in the ARC, Charibatia has prayed for quashing the
order of punishment issued by the Disciplinary Authority, at
Annexure-9 and the order of the Appellate Authority at Annx. 11
rejecting his representation. Respondents have filed counter
opposing the prayers of the applicant. When the matter was
called, Mr. Ratha, learned Counsel for the applicant and his
associates were absent. No request has also been made on their

behalf seeking adjournment. As this is a 1994 matter, where pleadings have been completed long ago, it was not possible to drag on the matter indefinitely. In view of this, we have heard Mr. U.B. Mohapatra, learned Additional Standing Counsel appearing for the Respondents and have also perused the records.

2. For the purpose of considering this Original Application, it is not necessary to go into too many facts of this case. The applicant was working as Head-mali and he was directed to dig 30 numbers of Pits 1'x1'x1½' and to prepare 4 numbers of flower beds of 2 feet wide and 6ft. long within a period of 15 days. The applicant did not take up the work and wanted additional man power & seeds. Because of his failure to take up the work, Departmental proceedings, under Rule-14 were initiated against the applicant. The Inquiring Officer, found the charge proved against the applicant and the disciplinary authority in his order dated 14.5.1993 imposed the punishment of reduction of pay of the applicant by five stages from Rs.1110/- to Rs.1010/- in the time scale of pay of Rs.880-1150/- for a period of three years. It was also ordered that he would not get increment during the period of reduction but at the end of it, the punishment will not have the effect of postponing his future increments of pay. Against this order, the applicant has filed an appeal on 28.8.1993 but the appellate authority in his order dated 28.9.1993 rejected the appeal on the sole ground that the appeal has been filed beyond the period of limitation of 45 days which is fixed for filing of appeal. Applicant has stated that in the order of punishment, he has been visited with three penalties and this is violative of Rules and instructions. This contention is not acceptable because

reduction of pay has been ordered for a certain number of stages and for a certain period and grading the punishment as a whole, it can not be said that three punishments have been imposed on the applicant. This contention, is, therefore, held to be without any merit and is rejected. It is also stated that the petitioner has been placed under suspension and an Inquiring Officer was appointed, *in* the orders, which have been annexed to this Original Application. *stated from it* The applicant has ~~prayed~~ *stated from it* that these orders *will be evident* that the disciplinary authority was prejudiced against him and has pre-judged his case. This contention is not acceptable because pending issuing of charge and during the process of enquiry, a delinquent government servant can be placed under suspension under the Rules and such order of suspension would not *mean amount* *J/m* that the disciplinary authority has prejudged the case. This contention is also rejected. Thirdly, it has been submitted by the applicant that the charge and other documents were given to him in English and these were not explained to him. The witnesses were examined in Oriya language and as he is not conversant with ~~the~~ Oriya, there was no opportunity to cross examine them. Respondents have pointed out that the last point was not taken by him before the Inquiring Officer and we also hold that this contention is without any merit. There is another *J/m* aspect of the matter which requires to be considered, ~~that~~ the punishment order was issued to the applicant on 14.5.93. There is nothing on record as to the date on which the order has been received by the applicant. Going by the period of 45 days, from 14.5.1993, this period would have been over by rounding about the end of June, 1993. The applicant has filed his appeal on 26.8.1993. Thus, there has been a delay of one month and 25 days. Applicant is a class-IV employee and it is not on record

as to the date on which the punishment order was actually received by him .So the actual period of delay may be even less than one month and 25 days.In view of this, as he is a class-IV employee,we feel that the Appellate Authority should not have rejected his appeal merely on the ground that the appeal has been filed beyond the period of limitation.In view of this, we set aside the order of the Appellate Authority and remand the matter to him with a direction that he may consider the appeal dated 25-8-1993 of the petitioner within a period of sixty days from the date of receipt of a copy of this order and pass appropriate orders.

3. With the above directions, the Original Application is disposed of.No costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.