

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 391 of 1994.

Cuttack, this the 31st day of March, 2000.

PRAVAKAR JENA.

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APPLICANT.

VRS.

UNION OF INDIA & ORS.

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RESPONDENTS.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

Somnath Som
(SOMNATH SOM) *rio*
VICE-CHAIRMAN

L. Narasimham
(G. N. ARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.391 OF 1994.

Cuttack, this the 31st day of March, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

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

Pravakar Jena, S/o. Sukendra Jena,
Earlier working as Substitute Token Porter,
under-Divisional Safety Officer, Khurda Road,
South Eastern Railways, Khurda Road, Khurda. : Applicant.

By legal practitioner: Mr. Biswajit Mohanty, Advocate.

-Versus-

1. Union of India represented through General Manager
South Eastern Railways, Garden Reach, Calcutta,
West Bengal.
2. Additional Divisional Railways Manager, S.E. Railways,
Khurda Road, District, Khurda.
3. Assistant Operating Superintendent,
Khurda Road Division,
South Eastern Railways,
Khurda Road, Dist. Khurda.
4. Assistant Operating Manager,
Khurda Road Division,
South Eastern Railways,
Khurda Road, Dist. Khurda.
5. Chief Enquiry Inspector,
South Eastern Railways,
Garden Reach, Calcutta,
West Bengal.

: Respondents.

By legal practitioner: M/s B. Pal,
O.N. Ghosh,
Senior Counsel for the Railways.

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O R D E R

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

Heard Mr. Biswajit Mohanty, learned counsel for the Applicant and Mr. B. Pal, learned senior counsel appearing for the Respondents and have also perused the records.

2. Applicant a Railway employee, in a disciplinary proceedings had been awarded with punishment of stoppage of increment for a period of one year by order dated Addl. 17.8.1993 by the Disciplinary Authority. The/Divisional Railway Manager, higher than the Disciplinary Authority enhanced the punishment and terminated the service by order dated 13.6.1994 (Annexure-A/8) after issuing the show cause notice dated 12.4.1994 (Annexure-A/6).

3. In this application, applicant prays for quashing of the report submitted by the Inquiring Officer and the order of the Disciplinary Authority as well as the order of the Addl. Divisional Railway Manager ultimately terminating his service.

4. So far as the report of the I.O. and the order of the Disciplinary Authority, we do not see any ground to interfere with the same inasmuch as the applicant admittedly did not prefer any departmental appeal against the order of punishment imposed by the disciplinary authority. Moreover, even on perusal of the report, we do not come across any material to interfere with the same.

5. As regards the termination order issued by the ADRM, the same can not be sustained because under rule-25

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of the Railway Servants(Disciplinary and Appeal)Rules, 1968 no order imposing or enhancing any penalty shall be made by any revising authority unless the Railway servant would be given reasonable opportunity in making a representation against the penalty imposed and as such, show cause has to be issued within 6 months on the date of punishment imposed by the Disciplinary Authority.The Disciplinary Authority imposed punishment on 17.8.1993, the show cause noticed issued on 12.4.94 i.e. morethan the six months after the imposition of the punishment order by the Disciplinary Authority.Hence the order of termination passed by the Addl.Divisional Railway Manager on 13.6.1994 (Annexure-A/8) is quashed.However, the punishment imposed by the Disciplinary Authority having not been interfered with by us as earlier stated still stands.

6. In the result the Original Application is allowed in part.No costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

31.3.2000
(G.NARASIMHAM)
MEMBER(JUDICIAL)

KM/CM.