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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 769 OF 1994  
Cuttack this the 2nd day of July, 1999

K.S.Mony

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 or not ? *No*.

(G.NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath-Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
2.7.99

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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 769 OF 1994  
Cuttack this the 2nd day of July, 1999

**CORAM:**

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

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Sri K.S.Mony,  
aged about 49 years,  
S/o.K.S.Shivasankar Nair,  
of village: Athigannoor, PO: Aralummoodu  
PS: Nayyattinkara, Dist: Trivendum  
at present working as Parcel Clerk,  
Railway Administration, Cuttack Railway  
Station Cuttack residing at C/o. M.Basantha Kumari, Staff  
Nurse, Unmarried  
Qr.No.1, S.C.B.Medical College Campus  
Cuttack

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Applicant

By the Advocates : M/s.D.R.Patnayak,  
K.C.Pradhan  
S.K.Mallick  
R.N.Nayak  
M.K.Khuntia

-Versus-

1. Union of India represented by its  
General Manager, S.E.Rly., Garden Reach,  
Calcutta
2. Sr.Divisional Commercial Manager,  
S.E.Rly, Khurda Road, At/PO:Jatni  
Dist: Khurda
3. Assistant Commercial Manager,  
S.E.Railway, Khurda Road, At/PO:Jatni  
Dist: Khurda

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Respondents

By the Advocates : Mr.R.C.Rath,  
Addl.Standing Counsel  
(Railways)

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ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing order dated 9.2.1994 at Annexure-3 directing that his next increment raising ~~from~~ his pay from Rs.1100/- to Rs.1125/- shall be withheld for a period of six months with effect from the date when it will otherwise be due and this order shall not operate to postpone future increments.

2. The facts of this case are that at the relevant time the petitioner was working as Jr. Parcel Clerk(Booking) at Cuttack Railway Station. Charge was issued against him in memo dated 2.9.1993(Annexure-1) in which it was alleged that while he was working as Parcel Clerk(Booking) in Cuttack Railway Station, he detained Train No.6003 on 2.9.1993 for a period of 10 minutes ~~by~~ <sup>for</sup> unloading 120 newspapers and by loading 23 baskets of fish to Madras. The applicant was asked to submit his explanation with regard to above charge within a period of 10 days from the date of receipt of such memorandum. The applicant's case is that he submitted his explanation on 8.10.1993, but this was not taken into account by the Respondents.

3. Respondents in their counter have pointed out that this charge memo dated 2.9.1993/23.9.1993 was received by the applicant on 2.10.1993. The applicant submitted his explanation/representation on 8.10.1993 and this was received by the competent authority on 13.10.1993. The respondents have stated that as the applicant was given time for 10 days from the date of receipt of the charge to submit his

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explanation/representation and as the charge memo was received by him on 2.10.1993, he should have submitted his explanation/representation on 12.10.1993 and as his representation was received by the competent authority on 13.10.1993, the same was ignored and the above punishment was imposed in order dated 9.2.1994 at Annexure-3. On the above grounds the respondents have opposed the prayer of the applicant.

4. We have heard Shri D.R.Patnaik, learned counsel for the applicant and Shri R.C.Rath, learned Addl. Standing Counsel, appearing for the respondents and also perused the records. We find that the charge memo issued on 2.9.1993 has been received by the applicant on 2.10.1993, which means that it took almost a month to reach the applicant. The applicant submitted his explanation/representation within a period of 10 days as indicated in the charge memo, but the same has been received by the competent authority on 13.10.1993, i.e. ~~after~~ <sup>say</sup> one day's delay. We do not think that this is an adequate ground for ignoring consideration of explanation/representation submitted by the applicant, more so when the order of punishment has been passed after passage of another four months on 9.2.1994. The 2nd aspect of the matter is that from the pleadings of the parties, it appears that the petitioner in his explanation has taken the stand that at the relevant date and time he was not on duty and therefore, he is not responsible for the alleged detention of train by 10 minutes. In consideration of the above fact, we hold that the respondents should not have ignored the

*S. J. M.*

explanation/representation submitted by the applicant before passing the impugned order dated 9.2.1994 at Annexure-3 when the explanation was verymuch under the hands of the competent authority as early as 13.10.1993. As this explanation/representation has not been taken into consideration at all by the competent authority, the impugned order dated 9.2.1994 vide Annexure-3 cannot be sustained.

Nex~~C~~question which arises is that whether the matter should go back to the disciplinary authority or not. Considering the fact that the alleged charge relates to year 1993 and that about six years have already elapsed in the meantime and the proceeding is for minor penalty proceeding, we do not think any purpose will be served by further allowing the proceeding to continue against the applicant. In consideration of this, we quash the impugned order dated 9.2.1994 at Annexure-3 imposing punishment of withholding increment raising his pay from Rs.1100/- to Rs.1125/- for a period of six months. In the result the application is allowed, but without any order as to costs.

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 (G.NARASIMHAM)  
 MEMBER (JUDICIAL)

B.K.SAHOO

*Somnath Som*  
 (SOMNATH SOM)  
 VICE-CHAIRMAN  
 2.7.99.