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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

O.A. No. 284 of 1995

Cuttack, this the 31st day of July, 1996

(5)

Corum :

1. Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman
2. Hon'ble Mr. N. Sahu, Administrative Member

Pravakar Panda, aged 39 years, son of
Dhruba Charan Panda of village-Kokarudrapur,
PS:Belianta, Dist:Puri, Ex-EDBPM, Kokarudrapur
Branch Post Office. **Applicant**

By the Advocate - **Mr. S.B. Jena**

Versus

1. Union of India, represented by the Secretary to the Government of India, Ministry of Communication, Department of Post, Dakabhaban, New Delhi - 110 001
2. Director of Postal Services, Sambalpur Region, At/PO./PS/Dist. Sambalpur
3. Senior Superintendent of Post Offices, Bhubaneswar Division, at & Post - Bhubaneswar, District - Khurda. **Respondents**

By the Advocate - **Mr. Ashok Mishra**

Heard on : 26.6.1996

O R D E R

A.K. Chatterjee, VC

The undisputed facts in this case are that the applicant, an Extra Departmental Branch Post Master was put off from duty on 12.6.84 and faced a disciplinary proceeding, which ended with a penalty of removal from service. This order was later set aside by the appellate authority, who had ordered a de novo enquiry on 31.7.89/9.8.89 and accordingly, a fresh enquiry was started on 25.10.89 and the applicant was deemed to have been on put off duty from 12.6.84. This proceeding has not yet been concluded. In such circumstances, this application has been filed on 11.8.95 to quash the proceeding on ground of

inordinate delay. During the pendency of this application, the applicant was served with a copy of the enquiry report and he has been asked to show-cause and the Tribunal made an order on 23.1.96 directing that the disciplinary proceeding may proceed but no final order should be passed without its leave. It was further clarified that the applicant should submit his show-cause notice as directed by the disciplinary authority.

2. In the Counter, the respondents contend that finalisation of the disciplinary proceeding up to the appellate stage and commencing de novo proceeding was a time consuming factor on which the respondents had no hand.

3. We have heard the Ld.Counsel for both the parties and perused the application, the counter together with all the annexures. Initiation of a de novo enquiry and putting off of the applicant from duty with retrospective effect from 12.6.84 were challenged by the applicant in an earlier application registered as O.A. 455 of 1989, which was found to be devoid of merit and dismissed on 21.4.92. Thus, though the application contained some grievance in this regard, he cannot be allowed to canvass it over again having been already decided in the said O.A.

4. Now about the delay. The necessity of concluding a disciplinary proceeding with utmost expedition can hardly be over-emphasised and any authority in support of this proposition is barely necessary. However, the Ld.Counsel for the petitioner has referred to a decision of the Supreme Court, A.I.R. 1987 SC 2257. This authority, however, is not quite relevant as in that case, inspite of a disciplinary proceeding pending for over 20 years and was quashed by the High Court and order made withholding the increments at the Efficiency Bar without hearing the employee was found

to be illegal. However, we have already observed that even apart from this authority, every endeavour should be made to conclude a disciplinary proceeding expeditiously. In the case before us, it is found that the enquiry has already been concluded and the applicant has been ordered to show-cause and he was asked to comply with it by the order of the Tribunal dated 23.1.96. In such circumstances, we are of the view and accordingly hold that the proceeding must be concluded within a specified period with an appropriate default clause and a reminder to the disciplinary authority that it is an established principle of law that the suffering undergone during the pendency of a case, is a consideration to determine the quantum of punishment.

5. We, therefore, dispose of the original application with a direction upon the respondents to conclude the disciplinary proceeding within six weeks from the date of communication of this order, in default of which the applicant shall stand exonerated of all charges. The applicant shall co-operate with the authorities so that the proceeding may be terminated within the specified period and if he does not, it may be decided ex-parte. The disciplinary authority shall also have regard to the suffering undergone by the applicant due to long pendency of the disciplinary proceeding against him in determining the quantum of penalty, if any.

6. The applicant is authorised to communicate this order to the concerned authority.

7. Parties to bear their own costs.

Narasingh Sahu
(N. Sahu) 31/7/96
Member(A)

A. K. Chatterjee
Vice-Chairman