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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 585 OF 1995  
Cuttack, this the 15th day of October, 2001

Sripati Satapathy .... Applicant

Vrs.

Union of India and others .... 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.

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(G.NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Sircar*  
SOMNATH SIRCAR  
VICE-CHAIRMAN  
15.10.2001

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATIN NO. 585 OF 1995  
Cuttack, this the 15th day of October, 2001

**CORAM:**

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

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Sripati Satapathy, son of late Narasingh Satapathy, Old  
LIC Colony, PO/PS/Dist.Phulbani

.....

Applicant

Applicant appeared in person.

Vrs.

1. Union of India, represented by its Secretary,  
Department of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, Orissa Circle,  
At/PO-Bhubaneswar, Dist.Khurda.
3. Director of Postal Services, Berhampur (Ganjam)  
Region, At/PO-Berhampur, Dist.Ganjam.
4. Superintendent of Post Offices, Phulbani (Orissa)  
Division, Post/Dist.Phulbani (Orissa)

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Respondents

Advocate for respondents - Mr.U.B.Mohapatra  
ACGSC

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this O.A. the petitioner has prayed  
for quashing the enquiry report dated 25.1.1989  
(Annexure-2), the order dated 26.11.1992 (Annexure-4)

removing him fromservice, the order dated 1.9.1993  
(Annexure-5) of the appellate authority rejecting his  
appeal, and the order dated 30.5.1994 (Annexure-6) of  
Member(Personnel), Postal Services Board rejecting his

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review petition. The applicant has also prayed for a direction to reinstate him in service with full back wages from 12.2.1989. The respondents have filed counter opposing the prayers of the applicant, and the applicant has filed rejoinder. We have perused the pleadings of the parties. We have heard the petitioner Shri Sripati Satpathy in person and Shri U.B. Mohapatra, the learned Additional Standing Counsel for the respondents. The petitioner has filed xerox copies of departmental circulars along with large number of decisions on which he relies. We have also perused the same. For the purpose of considering this petition it is not necessary to record all the averments made by the parties in the pleadings. The admitted facts of this case can, however, be briefly stated.

2. When the applicant was working as Sub-Post Master, Nuagaon S.O., a criminal case was instituted against him in which he was convicted on 19.1.1982 and was sentenced to RI for two years under Section 409 IPC and RI for one year under Sections 471/465 IPC, along with fine. His appeal against the above order of the learned Sub-Divisional Judicial Magistrate, Baliguda, was allowed, and the learned Additional Sessions Judge, Phulbani, acquitted the applicant under benefit of doubt. Against this order the State moved the Hon'ble High Court of Orissa in Criminal Misc. Case No. 880 of 1983 which was dismissed in order dated 16.1.1984. Thereafter the departmental proceedings were initiated

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against him on 12.5.1986 with two charges. The first charge was that while he was functioning as Sub-Post Master, Nuagaon S.O. he left headquarters closing down the Post Office from 2.4.1976 and 3.4.1976 and remained absent from duty unauthorisedly. The second charge was that during the period from 25.2.1976 to 4.4.1976 he issued and arranged payment of 57 bogus money orders by manipulating the Post Office records and documents, and misappropriated the amounts of money orders amounting to Rs.38,000/- and odd. Initiation of departmental proceedings was challenged by the applicant in OA No. 399 of 1987. But the Tribunal did not interfere and directed that the departmental proceedings should proceed. The inquiring officer in his report at Annexure-2 held that the two charges are proved and thereafter the disciplinary authority in his order dated 6.2.1989 removed the applicant from service with effect from 11.2.1989. The appeal filed by the petitioner against the punishment order was also rejected by the appellate authority. Thereupon the applicant approached the Tribunal in OA No.386 of 1990 with the prayer for quashing the orders of the disciplinary authority and the appellate authority. The Tribunal in their order dated 29.4.1992 disposed of OA No. 386 of 1990 quashing the punishment order and the appellate order on the ground that copy of the enquiry report had not been supplied to the applicant for making a representation against the findings of the inquiring officer and thereby the law as laid down by the Hon'ble Supreme Court in Md. Ramzan Khan's case, AIR 1991 SC 471, has not been followed. The Tribunal also remanded the

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matter to the disciplinary authority with a direction to cause service of the enquiry report as an abundant precautionary measure and directed that within fifteen days therefrom the petitioner will be at liberty to file representation, and in case he demands a personal hearing, that should be allowed to him and within thirty days from closure of the proceedings, the disciplinary authority should pass orders accordingly. Copy of the enquiry report had been sent to the applicant along with the original punishment order which had been quashed. Again another copy of the enquiry report was given to him and after considering his representation, the punishment order dated 26.11.1992 at Annexure-4 removing the applicant from service was passed. His appeal was also rejected by the appellate authority in his order dated 1.9.1993 (Annexure-5) and the review application was rejected by the Member(Personnel), Postal Services Board, on 30.5.1994. In the context of the above admitted facts, the applicant has come up in this petition with the prayers referred to earlier.

3. The respondents have taken the stand that the O.A. has been filed beyond the period of limitation and is, therefore, barred by limitation. We find that the O.A. has been filed on 29.5.1995. The punishment order of removal from service was passed on 26.11.1992 and the order of the appellate authority is dated 1.9.1993. Thus, it is clear that the O.A. has been filed one year and eight months after the order of the appellate authority. Under Section 21 of the

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Administrative Tribunals Act, 1985, the Tribunal shall not admit an application where a final order has been passed unless the application is made within one year from the date of such final order. Clause (b) of sub-section (1) of Section 21 of the Act provides that where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of Section 20 of the Act has been made and a period of six months has expired thereafter without any final order having been made, the limitation will be one year from the date of expiry of the period of six months. After rejection of his appeal, the applicant has filed a Review Application on 19.11.1993 which was rejected in the order dated 30.5.1994 (Annexure-6). But limitation will not be saved by filing a review application because sub-section (1) of Section 21 speaks of appeal. Section 20 also speaks of appeal. Appeal is a statutory right and therefore, the applicant should have filed this O.A. within the period of limitation after rejection of his appeal. It is also noted that along with the O.A. the petitioner has not filed any petition for condonation of delay. The Hon'ble Supreme Court have held in several cases that in matters before the Tribunal limitation should be strictly enforced and any delay must be explained by filing a petition for condonation of delay which has not been done in this case. In view of this, we hold that the O.A. is barred by limitation.

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4. In spite of our above finding, as this is a case of removal from service, we have looked into the matter on merits. The applicant has urged a large number of grounds challenging the findings of the inquiring officer. His main point is that during the enquiry he was not given a reasonable opportunity and principles of natural justice were violated. We find that after the enquiry report was received by him along with the original punishment order dated 6.2.1989, the applicant approached the Tribunal in OA No. 386 of 1990. In that O.A. at Annexure-3 he had enclosed the enquiry report. But in OA No. 386 of 1990 he did not challenge the findings of the inquiring officer and also did not pray for quashing the enquiry report. In view of this, it is clear that the applicant cannot be permitted to raise points belatedly challenging the report of the inquiring officer.

5. The other contention of the applicant is that the disciplinary authority and the appellate authority have not taken note of the points raised in his representation and appeal petition. We have gone through the two orders passed by the disciplinary authority and the appellate authority and we find that both the authorities have dealt elaborately with the submissions of the applicant and have passed reasoned and speaking orders. This contention of the applicant is therefore held to be without any merit and is rejected.

6. In view of our above discussions, the O.A. is dismissed on the ground of limitation as also on merits. No costs.

(G.NARASIMHAM)  
MEMBER (JUDL.)

SOMNATH SOM  
VICE-CHAIRMAN  
15.10.2001