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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 102 OF 1995
CUTTACK THIS THE 15th DAY OF JANUARY/2001

D.N. Tripathy

...

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

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 102 OF 1995
Cuttack this the 15th day of January/2001

CORAM:

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

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Debendra Nath Tripathy, aged about 53 years,
Branch Postmaster, Vovindpur Ramachandrapur
Via - Dompura, Dist - Cuttack-754 007

...

Applicant

By the Advocates

Mr.D.P.Dhalasamant

-VERSUS-

1. Union of India represented through the
Chief Postmaster General, Orissa, Circle
Bhubaneswar-751001
2. Senior Superintendent of Post Offices,
Cuttack City Division, Cuttack-753001

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Respondents

By the Advocates

Mr.Ashok Mishra

O R D E R

Som MR.SOMNATH SOM, VICE-CHAIRMAN: In this Application the petitioner has prayed for quashing the charge sheet dated 26.4.1994 (Annexure-3) issued against him. By way of interim relief he had prayed that inquiry into the allegation at Annexure-3 should be stayed. On the date of admission of this Application on 16.2.1995, proceedings were stayed by this Tribunal till disposal of this Original Application. Respondents have filed their counter opposing the prayer of the applicant.

2. Learned counsels have abstained from Court work since more than a month protesting against imposition of Professional Tax by the State Government. There is no indication when they will be returning to Court work. Hon'ble Supreme Court in the case of Raymon Services (P) Ltd. vs. Subhash Kapoor reported in 2000 AIRSCW 4093 have deprecated the action of the Courts in

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adjourning cases when the Lawyers abstained from Court work. Even their Lordships have observed that by such adjournment the defaulting Courts will be contributory to Contempt of the Hon'ble Supreme Court. In view of the law laid down by the Hon'ble Supreme Court in the above mentioned case, it is not possible to adjourn and drag on the matter indefinitely, especially when the stay order in this case is continuing for the last five years. We have, therefore, perused the records.

3. Petitioner is absent when called. There is also no representation from the side of the Respondents. Because of abstaination from Court work we did not have the benefit of hearing Shri D.P.Dhalasamant, the learned counsel for the petitioner and Shri Ashok Mishra, learned counsel appearing for the Respondents.

4. The case of the applicant is that in order dated 29.1.1993 (Annexure-1) the departmental proceedings were initiated against him on the ground that while working as Extra Departmental Branch Post Master, Govindpur - Ramachandrapur B.O. he was also working as Assistant Teacher Dulanpur U.P. School which is 5 kms. away from the post village. School hours are from 10.30 a.m. to 4.00 p.m. from Monday to Friday and during Summer from 6.30 a.m. to 11 a.m. On Saturdays school hours are from 6.30 a.m. to 11 a.m. The working hours of the Branch Post Office are from 11 a.m. to 12 noon and again from 13 p.m. to 15 p.m. The timing of receipt of Branch Office bags is 13.30 hrs. and time of despatch of bag is 12.00 noon. It has been alleged that the school hours of the applicant clashes with the working hoursof the Branch Office and therefore, the

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applicant has not been able to discharge the duties properly and has also infringed Rule-5 of the E.D. Rules. These proceedings were dropped in order dated 10.11.1993 (Annexure-2) without any indication that fresh proceedings would be initiated against the applicant. But later on in impugned order at Annexure-3 dated 26.4.1994 fresh proceedings on the same ground have been initiated against him. Against this background the applicant has prayed for quashing the proceedings on the sole ground that at the time of dropping the earlier proceedings the departmental authorities did not reserve the right to initiate fresh proceedings on the same charge and therefore, fresh proceedings could not have been, in law, initiated against him.

5. Respondents have pointed out that at the time of initiation of the 1st proceedings in January/1993, it was noted in the Articles of charge that the applicant along with his working as E.D.B.P.M. ~~was~~ working as Assistant Teacher Dulhanpur U.P. School. It came to the notice in the process of inquiry that the applicant had in the meantime been transferred from Dulhanpur to Kusunda U.P. School in the same place where the Branch Office is located. In view of the change of School of the applicant, the earlier charge was cancelled and fresh charge was initiated vide Annexure-3, in which it has been mentioned that he is working as Headmaster of Kusunda U.P. School and the working hours of Kusunda U.P. School and the working hours of the Branch Office, have been mentioned in the statement of imputations. Respondents have also stated in Page-2 of their counter that the applicant had been asked repeatedly in letters dated 6.11.1987,

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26.4.1988, 28.6.1988, 28.11.1990 and 18.5.1992 to resign from either of the Posts. Even though he received those letters he did not comply with the same.

6. We have considered the pleadings of the parties carefully. We find that the explanations given by the Respondents for cancelling 1st charge and issuing the charge sheet vide Annexure-3 are reasonable. Besides working as E.D.B.P.M. the applicant was holding a transferable job and has been transferred from Dulhanpur U.P.School to Kusunda U.P.School and therefore, the charge had to be changed by dropping the earlier charge for initiating fresh charge. There has been no illegality in the action of the departmental authorities in this matter. This being the only ground for quashing the charge sheet at Annexure-3, we hold that the application is without any merit and the same is, therefore, rejected, but without any order as to costs.

Interim order passed on 16.2.1995 stands vacated.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

B.K.SAHOO//