

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 10 OF 1996
Cuttack, this the 2nd day of May, 2001

Vrs.

Union of India and others ... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Key

 2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No

(G.NARASIMHAM)
MEMBER (JUDICIAL)

SOUNAPH SONG
VICE-CHAIRMAN

**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.**

**ORIGINAL APPLICATION NO. 10 OF 1996
Cuttack, this the 2nd day of May, 2001**

CORAM:

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

.....
Hadibandhu Behera, son of Padmalochan Behera, Retired Telecom District Engineer, House No.61, Baripada Town, P.O-Bhanjapur, District-Mayurbhanj (Orissa)....

.....
Applicant

Advocate for applicant - Mr.M.K.Mallick

Vrs.

1. Union of India, represented through Secretary, Government of India, Ministry of Communication, Department of Telecommunication, West Block-I, Wing-2, Ground Floor, R.K.Puram, Sector-1, New Delhi-110 066.
2. Sri K.K.Kulasrestha, Asst. Director General (DT), Department of Telecom, West Block-1, Wing-2, Ground Floor, R.K.Puram, Sector-1, New Delhi-110 066
3. Sri P.K.Hota, Inspector of Police, C.B.I., SPE, Bhubaneswar, Dist.Khurda, Orissa....Respondents

Advocate for respondents - Mr.A.K.Bose
Sr.C.G.S.C.

ORDER
SOMNATH SOM, VICE-CHAIRMAN

In this O.A. the petitioner has prayed for quashing the disciplinary proceedings initiated against him at Annexure-1. He has also prayed that certain preliminary points should be heard in compliance with the order dated 6.9.1995 of the Tribunal disposing of OA No.503 of 1995 at Annexure-4. He has also prayed that appointment of respondent no.4 P.K.Hota, Inspector of Police,C.B.I., Bhubaneswar, should be quashed and it should be declared that assistance to the applicant by his lawyer cannot be prohibited by respondent nos. 1 and 2. Departmental respondents have filed counter opposing

the prayers of the applicant. No rejoinder has been filed.

2. When the matter was called for hearing on 30.3.2001, the learned counsel for the petitioner was absent nor was any request made on his behalf seeking adjournment. It was noted that on previous occasion also he was absent. As this is a 1996 matter where pleadings had been completed long ago, it was not possible to adjourn the matter. We have therefore heard Shri A.K.Bose, the learned Senior Standing Counsel for the departmental respondents and have perused the record.

3. As earlier noted the applicant's main prayer is for quashing the disciplinary proceedings at Annexure-1. The admitted position is that the applicant was working as Telecom District Engineer, Rourkela, when he retired on 31.7.1991. After his retirement disciplinary proceedings were initiated against him in order dated 31.8.1994 at Annexure-1. The single article of charge relates to certain alleged acts of commission and omission on the part of the applicant ~~for~~ ^{during} the period from 4.12.1990 to 2.1.1991. The disciplinary proceedings started on 31.8.1994 were, therefore, initiated under sub-clause (i) of clause (b) of sub-rule (2) of Rule 9 of the Central Civil Services (Pension) Rules, 1972. These proceedings were initiated after obtaining sanction of the President as by the time of initiation of the proceedings the applicant had retired from service. Under the above rule disciplinary proceedings in respect of retired Government servant shall not be instituted save with the sanction of the President and shall not be in respect of any event which took place

VJm

more than four years before such institution. In the instant case sanction of the President has been given as it appears from Annexure-1 and the alleged acts of commission and omission relate to event which took place within four years before 31.8.1994. The applicant has challenged the proceedings on the ground that Desk Officer of the Ministry is not a person authorised by the President to grant sanction. He had earlier approached the Tribunal in OA No.802 of 1994 which was disposed of at the stage of admission in order dated 11.1.1995 in which the grievance of the applicant for supply of certain documents was considered and respondent no.1 in that OA was directed to dispose of the applicant's representation dated 24.9.1994 within one month. The applicant again approached the Tribunal in OA No. 503 of 1995 and it was disposed of in order dated 6.9.1995 at the stage of admission. In that OA the grievance of the petitioner was that the procedure adopted for conducting enquiry suffers from inherent lacunae. He also raised the question regarding supply and non-supply of documents as requested by him, ^{and} the propriety of C.B.I. officer functioning as Presenting Officer. The Tribunal in their order dated 6.9.1995 declined to express any opinion on these matters and directed that the applicant should place these matters before the inquiring officer who may consider the best way to respond the issues so raised. Thus the applicant has approached the Tribunal in this O.A. for the third time during the pendency of the proceedings. Apart from paying for quashing of the departmental proceedings, he has also stated that his prayer for getting himself represented through his advocate Shri M.K.Mallik has been rejected by the

Department of Telecommunication in the order at Annexure-8. He has stated that respondent no.4 being a law knowing officer should not be allowed to present the case of the Department. If all these involve any illegality and thereby the applicant is denied a reasonable opportunity it is open for him to challenge the findings and the conclusion of the enquiry report at a later stage. But he cannot be permitted to raise the same points again and again in support of his prayer for quashing the disciplinary proceedings.

4. As the disciplinary proceedings have been initiated on 31.8.1994 and from the counter of the respondents it is not clear as to what the present stage of the disciplinary proceedings is, we had directed the learned Senior Standing Counsel to file a memo indicating the present position. Accordingly, the learned Senior Standing Counsel has filed a memo from which it appears that regular hearing of the disciplinary proceedings has already been started with the first sitting held on 18.10.2000. Apart from the validity of different points urged by the applicant in this OA, we note that the applicant has retired from service on 31.7.1991 and disciplinary proceedings have been initiated only on 31.8.1994. Thereafter more than six years have passed and the first sitting of the regular hearing has been held only on 18.10.2000. There has thus been considerable delay in finalisation of the proceedings against the applicant. In view of the above, we direct respondent nos. 1 and 2 to complete the enquiry within a period of four months from the date of receipt of copy of this

S. J. M.

order. The applicant as also respondent no.4 are directed to co-operate with the inquiring officer for completing the enquiry within the time period fixed. In case the applicant does not cooperate in the enquiry without sufficient cause, then the inquiring officer should complete the enquiry ex parte within the period indicated by us. We make it clear that the points raised by the applicant in this O.A. with regard to the various illegalities committed in course of the proceedings are kept open and no views are being expressed on these averments of the applicant. The applicant will be free to agitate the same before the inquiring officer, as has been indicated by the Tribunal in their earlier order referred to by us earlier.

5. In the result, therefore, the Original Application is disposed of in terms of the observation and direction above. No costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
25-2-2001
VICE-CHAIRMAN