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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 206 OF 1996.

Cuttack this the 18th day of February, 1997.

MR. JIBARDHAN BISWAL.

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APPLICANT

- Versus -

UNION OF INDIA & OTHERS.

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RESPONDENTS.

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

K.M. Agarwal
(K. M. AGARWAL)
CHAIRMAN

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 206 OF 1996.

Cuttack, this the 18th day of February, 1997.

C O R A M:-

THE HONOURABLE MR. JUSTICE K. M. AGARWAL, CHAIRMAN.

A N D

THE HONOURABLE MR. SOMANATH SOM, VICE- CHAIRMAN.

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JIBARDHAN BISWAL,
Postal Assistant,
(Under Suspension)
Bhawanipatna -H.O.,
Dist-Kalahandi-766 001.

....

APPLICANT.

By legal practitioner

... Mr. D.P.Dhalsamant,
Advocate.

-VERSUS-

1) Union of India represented through
Chief Post Master General,
Orissa Circle, Bhubaneswar-751 001.

2) The Director of Postal Services,
Berhampur Region, Berhampur (Ganjam).

3) The Superintendent of Post Offices,
Kalahandi Division, Bhawanipatna-1.

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RESPONDENTS.

By legal Practitioner

... Mr. Ashok Mohanty,
Senior Standing Counsel (Central).

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O R D E R

MR. JUSTICE K. M. AGARWAL, CHAIRMAN :-

Heard Mr. D.P.Dhalsamant, learned Counsel for the Applicant and Mr. Ashok Mohanty, learned Senior Standing Counsel for the Respondents.

2. This is a petition for quashing the impugned suspension order passed against the applicant on 10-02-1994 (Annexure-1).

3. The applicant was in the employment of the Postal Department of the Union of India. While posted at Bhawanipatna, as Postal Assistant, he was served with the impugned suspension order on the ground that a disciplinary proceeding against him was under contemplation. By another order dated 06-04-1994 (Annexure-2) which is also impugned, he was directed to be paid Subsistence Allowance at the admissible rates during the period of suspension.

*Journalist Jm
18-2-97*

4. It is not disputed that so long, even the chargesheet has not been served by the Respondents on the Petitioner. According to the learned Senior Standing Counsel for the Respondents, the allegations are very serious and a

a Police Report was also made. He also very fairly conceded that to his knowledge so far no Criminal case has been started by the concerned police against the petitioner. He tried to justify the continuance of the suspension order by submitting that a period of 2 or 3 years suspension without being chargesheeted can not be said to be unreasonable period of suspension. Learned Senior Standing Counsel further submitted that this Tribunal may direct the Respondents to frame charges and then to serve the same on the petitioner within a specified time and if that is not done within the time allowed, then the suspension may be quashed. According to the learned Senior Standing Counsel, without such opportunity being given, the suspension order should not be quashed. The learned Counsel for the petitioner cited before us the decision of the Supreme Court in the case of STATE OF H.P.-VRS.- B.C. THAKUR (1994) 27 Administrative Tribunals Cases 567 (SC) and that of Administrative Tribunals Cases in the case of SUDHIR V. KOLGAONKAR - VRS. - UNION OF INDIA AND OTHERS (1996) 33 Administrative Tribunals Cases 431 (C.A.T, Bombay), to submit that suspension in-contemplation of disciplinary proceeding continuously for a period of more than six months without

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application of mind or review and without filing charge-sheet was illegal.


5. After hearing the learned counsel for the parties, we are of the view that the impugned order of suspension having been in force for a period of more than a period of three years on the date of the order can not be allowed either to continue or to subsist. In the case before the Supreme Court, the delinquent officer was chargesheeted and the departmental enquiry was also pending. However, there was no substantial progress in the departmental enquiry for nearly a period of two years and therefore, the Supreme Court took a view that continuation of suspension for nearly two years in such a case could not be held valid. Similarly, Bombay Bench of this Tribunal considered a case of suspension in contemplation of a Departmental proceeding and it was held that continued suspension for more than six months without application of mind or review and without filing charge-sheet was illegal. Following these decisions, we are of the view that in the facts and circumstances of the case, the impugned suspension order or the subsequent order for subsistence


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Allowance can not be sustained. Accordingly they are liable to be quashed.

6. In the result, this petition succeeds and it is hereby allowed. The impugned suspension order dated 10-02-94 and the subsequent order for Subsistence Allowance dated 06-04-1994 (Annexures-1 & 2) are hereby quashed. But the Respondents shall be at liberty to initiate Departmental enquiry against the petitioner and to put him again under suspension pending conclusion of enquiry for a reasonable period of time in the light of the decisions aforesaid.

No costs.


(SOMNATH SOM)
VICE-CHAIRMAN


(K. M. AGARWAL)
CHAIRMAN

KNM.