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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 45 OF 1996
Cuttack, this the 19th day of August, 2003.

Nigam Charan Acharya. Applicant.

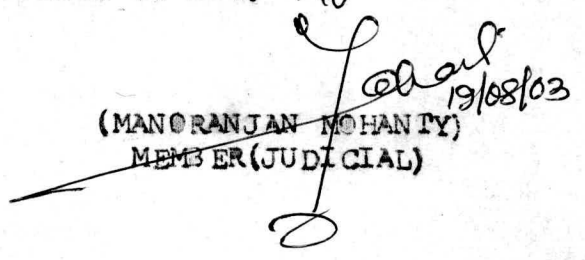
: vs. :

Union of India & others. Respondents.

FOR INSTRUCTIONS

- 1. whether it be referred to the reporters or not? ~~No~~ Yes.
- 2. whether it be circulated to all the benches of the Central Administrative Tribunal or not? No


(B.N. SOM)
VICE-CHAIRMAN


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)
19/08/03

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guilty of the charges and has also begged apology for the same. The enquiry officer in his report observed as follows;

"As the charged official admitted the correctness of the charges framed against him inspite of reasonable opportunity offered to him to defend the case it was not found necessary to continue the inquiry any further and hence the inquiry was closed".

The Applicant was supplied with a copy of the inquiry report on 21.3.1995 and he submitted a reply on 08.04.1995 praying therein to pardon him. After considering his reply and all documents, he was removed from service under Annexure-1 dated 13.6.1995 and his appeal dated 26.7.95 having been rejected on 2.11.1995; he has filed this original Application under section 19 of the Administrative Tribunals Act, 1985; wherein he has prayed for quashing of the order of punishment under Annexure-1 dated 13.6.1995 and the order of rejection of his appeal under Annexure-2 dated 2.11.1995.

2. The Respondents, by filing a counter, while giving the details of the factual aspect, have submitted that there was nothing wrong in the order of punishment and that such a conclusion was arrived at only after giving adequate opportunity to the Applicant in the enquiry.

3. We have heard learned counsel appearing for both sides and perused the records. The main plank of the argument of the learned counsel for the Applicant is that even though the Applicant had admitted the charges during the enquiry, still the report of the enquiry and

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the order of punishment are not sustainable in the eye of law; because as per the Rules/Law, even if the delinquent had admitted his fault, there should have been an enquiry into the charges. In support of this learned counsel for the Applicant has filed a written note of argument relying upon various judge-made laws of the Hon'ble Apex Court of India and of various Tribunals. Learned Additional Standing Counsel appearing for the Respondents has also filed a Memo of citation relying on two judgments of the Hon'ble Apex Court; wherein it has been held that the Tribunal is devoid of power to re-appreciate the evidence and to come to its own/ different conclusion like an appellate Authority.

4. During the course of argument, however, our attention has been drawn to the letter No. 10/4/83-Vig. III dated 10th October, 1983 of the Director General of P&T which was issued on the query made by the PMG, Madras in his letter No. STC/5-18/80 dated 7th September, 1983; the text of which is quoted herein below:-

*9. Inquiry not necessary when charge is admitted; query:-
In CCS (CCA) Rules, there is a specific provision in Rule 14(5) (a) that the inquiry is to be held only in respect of articles of charge that are not admitted. But no such provision has been made in Rule-8 of ED Agents (Conduct and Service) Rules and whenever the penalty of removal/dismissal is contemplated an inquiry has to be ordered even if the EDA accepts the charges. It may be clarified whether an inquiry is necessary in cases where the ED Agents accept the charges.

Reply: The purpose of holding an inquiry in such cases is primarily to give the ED Agent adequate opportunity to defend himself. In case the charge is accepted by him un-conditionally there would obviously be no need for an inquiry*.

(emphasis supplied)

5. We have gone through the reply submitted by the Applicant expressing unconditional admission of the allegations levelled against him; which fact has also been considered by the Appellate Authority. We have also gone through the decisions referred to by the learned counsel for the Applicant; but these decisions are of no relevance to the facts of this case.

6. In the above view of the matter, there was nothing wrong either in the report of the inquiry or in the order of punishment awarded; which was confirmed by the Appellate Authority.

7. In the result, this Original Application is dismissed being devoid of any merit. No costs.


(B. N. SOM)
VICE-CHAIRMAN


19/08/2003
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MEMBER (JUDICIAL)