

13

13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 529 OF 1996.

Cuttack this the 5th day of March, 1996.

SHRI HARIBANDHU SEN APATI.

APPLICANT.

-VERSUS-

UNION OF INDIA AND OTHERS.

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
VICE-CHAIRMAN
S-3/98

S. K. Agarwal
(S. K. AGARWAL) 5/3/98
MEMBER (JUDICIAL)

14

14

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 529 OF 1996.

Cuttack this the 5th day of March, 1996.

C O R A M:-

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN.

A N D

THE HONOURABLE MR. S.K. AGARWAL, MEMBER(JUDICIAL).

....

IN THE MATTER OF:

Shri Haribandhu Senapati, aged about 44 years,
son of Ram Chandra Senapati, At/PO. Singarpalli,
P. S. Odagaon, District- Nayagarh, ORISSA.

... APPLICANT.

By legal Practitioner :- M/s. A.K. Nayak, P.K. Biswal,
Advocates.

- Versus. -

1. Union of India represented through the
Secretary, Department of Posts, Dak Bhawan,
New Delhi.

2. Senior Superintendent of Post Offices,
Puri, At/PO/Dist. Puri.

3. Sub Divisional Inspector, Postal,
Nayagarh West Sub Division,
Nayagarh.

4. Sibaram Pradhan, S/o. Sukra Pradhan,
At-Lingiribari, PO. Singarpalli,
Dist. Nayagarh.

... RESPONDENTS.

By legal Practitioner : Mr. Ashok Mohanty, Senior Standing
Counsel (Central).

....

Somnath Jum
5-3-98

15

15

-2-

O R D E RMR. SOMNATH SOM, VICE-CHAIRMAN:-

In this Original Application, under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the order dated 11.9.1995 at Annexure-4 putting him off duty. There is also a prayer to re-instate the petitioner to his earlier post with full backwages. The third prayer is for quashing the notification dated 30.5.1996 (Annexure-5) in which, applications have been invited for filling up of the post of Extra Departmental Delivery Agent, Singarapalli, Branch Post office.

*Somnath Jm
S.3.98*

2. The facts of this case, according to the applicant, are that the applicant was appointed as Extra Departmental Delivery Agent, on 20.2.1970. By an order dated 30.3.1994, he was given additional charge of the post of Extra Departmental Branch Post Master, of Singarapalli Branch Post Office, alongwith the duties of Extra Departmental Delivery Agent. He took over the charge of the post of E.D.B.P.M. on 3.5.1994. Certain irregularities were subsequently found in the duties of the E.D.B.P.M. and the cash book was not maintained properly. The applicant deposited a sum of Rs. 8,803/- in the Sub Post Office, Bahadajhola on 9.9.1995 the

- 3 -

receipt of which is at Annexure-3. After that, on 11.9.95, by the impugned order at Annexure-4, the applicant was put off duty. Even though, the Departmental Authorities have stated that he will be reinstated shortly, the applicant is continuing under put of duty and in the meantime, by impugned order at Annexure-5, applications have been invited for filling up of the post of Extra Departmental Delivery Agent, Singarapalli Branch Post Office. Applicant's case is that certain lapses were found with him with regard to the duties of EDBPM and he has already made good the loss. Therefore, the Respondents should not have asked for filling up of the post of E.D.D.A. In view of the above, he has come up with the aforesaid prayer.

*Somnath Jum
5.3.98*

3. Respondents, in their counter, have stated that the applicant was originally appointed as E.D.D.A. and while continuing as such, he was given the charge of the post of E.D.B.P.M. in addition to his own duties with effect from 3.5.1994. The over-seer mails, visited the office and during verification, found that the applicant had accepted certain amounts as savings Bank deposits and

- 4 -

have endorsed the savings Bank pass book of the concerned persons but have not entered the amounts in the savings bank journal and not credited the amounts in the Savings Bank Account Book. In total, the applicant had committed fraud to the tune of Rs. 8,803 and the amount was voluntarily deposited by the applicant on 9.9.1995. Because of the above lapses, the applicant, have been put off duty. The Respondents have further stated that departmental judicial proceedings against the applicant were pending and it was not possible to know the time by view these proceedings are likely to be finalised and in view of this in order to manage the work, it was decided to fillup the post of E.D.D.A., Singarapalli and accordingly notice vide Annexure-5, was issued calling for applications for filling up of the post of E.D.D.A. Singarapalli. In the above context, the Respondents have opposed the prayer of the applicant.

*Somnath Jm
S.3.98*

4. We have heard Mr. A.K.Nayak learned counsel for the applicant and Mr. Ashok Mohanty, learned Senior Standing Counsel(Central) for the Respondents.

5. The first point to be noted in this connection is that against the applicant departmental proceedings are pending though in page-3 of the counter, the respondents have stated that departmental/judicial proceedings are pending against the applicant. In page 4, in reply to para-4

-5-

(11) of the original application, it has been mentioned by the Respondents in the counter that departmental judicial enquiry is pending against the applicant. From this, it is clear that only departmental proceedings are pending against the applicant. As the charges against the applicant are about the ~~fraud~~ ^{J. J. M.} of Government Money the order putting him off duty can not be held to be arbitrary or illegal. In view of this, it is not possible for the Tribunal to quash the order putting the applicant off duty but at the same time, the Departmental proceedings should ~~not~~ be continued indefinitely. According to the instructions of the DG Posts' ~~such~~ ^{similar} enquiry should be finalised expeditiously within a period of six months. In this case, the applicant has been put off duty in September, 1995 i.e. more than two and half years ago. In consideration of the above, it is ordered that the departmental authorities should complete the enquiry within sixty days from the date of receipt of a copy of this order.

*Jammal Chishti
5.3.98*

6. Learned counsel for the applicant submitted that the petitioner will co-operate in the enquiry so that because of him, the proceedings do not drag on. In case the petitioner does not cooperate in the enquiry, the Departmental Authorities should complete the enquiry

- 6 -

ex parte within the period indicated above. Depending upon the result of the enquiry, further action should be taken by the Respondents with regard to treating the period of put off duty.

7. Prayer for payment of backwages can not, therefore, be allowed at this stage.

8. There is another aspect in the matter which requires consideration. In the impugned order putting the applicant off duty, it has been mentioned that during the put off duty period, the applicant will not be entitled to any allowances. This was the provision in the Departmental Rules earlier. But subsequently, in accordance with the direction of the Honourable Supreme Court, the Departmental Rules have been amended. In view of this, it is ordered that whatever amount is due to be paid to the applicant strictly in accordance with the amended rules, should be paid to him within 30 (thirty) days of the completion of the enquiry, if the same has not been paid already.

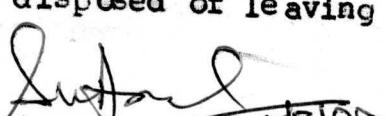
*Jonnalath J.M.
5.3.96*

9. The last prayer of the applicant is for quashing the notification dated 30.5.96 (Annexure-5) in which applications have been invited for filling up of the post of E.D.D.A. Singarapalli. We note that in this case, the applicant was functioning both as E.D.D.A. & E.D.B.P.M. On being put off duty, naturally both the posts have

*his
JDM*

fallen vacant and therefore, no fault can be found with the Departmental Authorities calling for applications for filling up of the post of E.D.D.A., Singarapalli. But as the applicant's basic post is that of the E.D.D.A. and Departmental Proceedings for the lapses on the part of the applicant, are yet to be finalised, it is ordered that no regular appointment should be made to the post of E.D.D.A. Singarapalli in pursuant to the notice at Annexure-5. In case the applicant goes back under the orders of the Departmental Authorities to the Post of E.D.D.A., Singarapalli, after conclusion of the Departmental Proceedings against him, then, ^{the} fresh appointee, must make room for the applicant and this condition should be specifically mentioned in the order of appointment of the person so selected and appointed in pursuant to the notice under Annexure-5.

10. In view of the observations and directions made in paras 5, 6, 7, 8, and 9, the Original Application is disposed of leaving the parties to bear their own costs.


(S. K. AGARWAL) 5/3/98
MEMBER (JUDICIAL)


(SOMNATH SOM)
VICE- CHAIRMAN 5/3/98