

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH;CUTTACK.

ORIGINAL APPLICATION NO.297 OF 1998

Cuttack, this the 13th October, 1999

Gangadhar Naik

.....

Applicant

Vrs.

Union of India and others

.....

Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the 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)

VICE-CHAIRMAN, 99

9

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 297 OF 1998
Cuttack, this the 13th day of October, 1999

CORAM:

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

....

Gangadhar Naik, aged about 42 years, son of Gopinath Naik at present working as Postal Assistant, Cuttack G.P.O., Cuttack

.... Applicant.

Advocate for applicant - Mr. T. Rath.

Vrs.

1. Union of India, represented through Chief Post Master General, Orissa Circle, Bhubaneswar, District-Khurda.
2. Senior Superintendent of Post Offices, Cuttack City Division, Cantonment Road, Cuttack-1.
3. Senior Post Master, Cuttack G.P.O., Cuttack-1.

.... Respondents

Advocate for respondents - Mr. S. B. Jena,
ACGSC

ORDER

SOMNATH SOM, VICE-CHAIRMAN

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In this Application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the proceeding under Annexure-1 which contained the charges against the applicant, as also other consequential orders passed in pursuance of the charges. The second prayer is for a direction to the respondents to give all consequential reliefs to the applicant within a stipulated period.

2. The respondents have appeared and filed counter. We have heard Shri T.Rath, the learned counsel for the petitioner and Shri S.B.Jena, the learned Additional Standing Counsel for the respondents and have also perused the records. For the purpose of considering this OA it is not necessary to go into too many facts of this case.

3. The applicant's case is that after joining the Postal Department as Postal Assistant on 26.3.1986 he actively participated in the activities of Bharatiya Postal Union of Class-III Employees and thereby incurred enmity of certain persons mentioned by him in his Application who were active members of the National Federation of Postal Unions. Apparently, because of this a departmental proceeding was initiated against him and the charges were issued on 28.11.1991 at Annexure-1. Even though long eight years have passed the disciplinary proceedings have not been finalised. Because of long pendency of the proceedings the applicant came up before the Tribunal earlier in OA No. 467/97. At the time of admission of OA No.467 of 1997 it was prayed by the learned counsel for the petitioner that the O.A. should be disposed of by issuing a direction to the respondents to complete the enquiry. After considering the averments made by the applicant in that petition, it was directed that the respondents should complete the disciplinary proceedings within a period of four months from the date of receipt of copy of the order. It was also made clear in the Tribunal's order dated 22.8.1997 that no comment is being made about the culpability or otherwise of the applicant with regard to the disciplinary proceedings. It was also noted that the charges against the applicant are serious

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11

in nature and therefore the applicant should co-operate fully in the matter of completion of the enquiry within the period earlier indicated. It was also indicated that in case the applicant does not cooperate in further sittings of the Inquiring Officer or asks for adjournment, then the respondents would be free to approach the Tribunal for extending the above period of four months for completion of the disciplinary proceedings. At this stage it is necessary to take note of the charges.

4. The charge against the applicant is that while he was working as Postal Assistant in the Parcel Delivery Branch of Cuttack G.P.O., he abstracted the contents of Foreign Parcel addressed to Sister, Dayashram, Cuttack, a charitable institution and an orphanage, by taking away some of the contents for his personal benefit on 28.10.1991. In the statement of imputations it was mentioned that from the parcel the applicant extracted small leather sandal (one pair), small plastic sandal (one pair), a synthetic small full Hawai shirt and a synthetic half hawai shirt and kept them in his terrycotton handbag at about 11 30 hours. Another officer suspected the activities of the applicant and wanted to see his bag but the applicant did not show the bag and immediately started running. He was followed and caught hold of and the contents of the bag were examined in presence of several other persons. The applicant gave a written statement on 29.10.1991 that the above articles have been donated to him by the Sister, Dayashram. But the Sister, Dayashram, who was the addressee, in her written statement stated that she took delivery of the parcel which was in broken condition. She also denied having donated any article to the applicant. Thus, in short, the charge is that while the applicant was

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working as a Parcel Clerk, he extracted certain articles from a parcel meant to a charitable and orphanage institution for his own benefit.

5. The respondents in their counter have opposed the prayer of the applicant indicating that the inquiring officer submitted his report and the copy of the enquiry report was sent to the applicant on 27.10.1997 and the applicant submitted his written representation on 10.11.1997. As the present Senior Superintendent of Post Offices, Cuttack City Division, is lower in status than the authority who had appointed the applicant, it became necessary to appoint an ad hoc disciplinary authority to finalise the disciplinary proceedings against the applicant. As appointment of ad hoc disciplinary authority is to be decided by the Director-General, Posts, New Delhi, adequate time is necessary. It is stated that after receipt of the decision regarding appointment of ad hoc disciplinary authority, the disciplinary proceedings will be finalised.

6. From the above recital of facts of both sides, we find that the enquiry has been completed and copy of the enquiry report has also been supplied to the applicant who has also submitted his written representation.

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It is now only necessary for the disciplinary authority or ad hoc disciplinary authority, as the case may be, to take into consideration all the materials and pass final order on the disciplinary proceedings. As we had noted in our order in the earlier OA, the charge against the applicant is serious in nature. But at the same time the applicant cannot be kept under the suspense of having a disciplinary proceedings pending against him for about nine years. In consideration of this, while we decline

13

-5-

to quash the disciplinary proceedings, we issue a direction to the respondents that final order on the disciplinary proceedings must be passed within a period of 60 (sixty) days from the date of receipt of copy of this order by the respondents. We note that the learned Additional Standing Counsel had himself indicated that sixty days time should be given to the respondents to bring the disciplinary proceedings against the applicant to a finality.

7. In the result, therefore, the Original Application is disposed of in terms of the observation and direction given above but, under the circumstances, without any order as to costs.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
13.10.99
VICE-CHAIRMAN

AN/PS