

8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 304 OF 1998.

Cuttack, this the 13th day of November, 2000.

Jayaram Mallick.

....

Applicant.

Vrs.

union of India & 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
(SOMNATH SOM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 304 OF 1998.
Cuttack, this the 13th day of November, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
AND
THE HONOURABLE MR. G. NARASIMHAM, MEMBER(JUDICIAL).

Jayaram Mallick,
EX-Postal Assistant, Bhubaneswar
G. P. O., Resident of At/Po; Gambhariapada,
via. Kakatpur, Pin-750 108, Dist. Puri.

: Applicant.

By legal practitioner : M/s. M/s. B. S. Tripathy, M. K. Rath, Advocates.

- Versus -

1. Union of India represented by its
Chief Postmaster General,
Orissa Circle,
At/Po; Bhubaneswar,
Dist; Khurda.
2. Additional Postmaster General,
Orissa, At/Po; Bhubaneswar,
Dist; Khurda.
3. Superintendent of Post Offices,
Bhubaneswar Division,
Bhubaneswar-1,
Dist; Khurda.

: Respondents.

By legal practitioner : Mr. J. K. Nayak, Additional Standing Counsel

J. K. Nayak

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, the applicant who is a Ex-postal Assistant has prayed for quashing the order dated 9-9-96 at Annexure-1 of the Appellate Authority, rejecting his appeal as against the order of the Disciplinary Authority removing him from service.

2. Respondents have filed counter opposing the prayer of the applicant. The matter was listed for hearing on two Memos filed on 22-5-2000 and 25-7-2000 by the learned counsel for the applicant urging early date of hearing. Today, when the matter was fixed for hearing at mentioned hour a prayer was made on behalf of the learned counsel for the applicant for an adjournment and the same was refused because by the of the two earlier Memos filed learned counsel for the Applicant. When the matter was called learned counsel for the Applicant Shri B.S.Tripathy and his associates were absent. We have heard Mr.J.K.Naik, learned Additional Standing Counsel(Central) appearing for the Respondents and have also perused the records.

3. For the purpose of considering this Original Application, it is not necessary to go into too many facts of this case. In this Original Application, the applicant has prayed for quashing the order dated 9-9-1996 at Annexure-1 of the Director of Postal Services, Bhubaneswar rejecting his appeal. We find that the applicant has not made the Director of Postal Services a Respondent in this O.A. Therefore, the application is liable to be rejected at the outset on the ground of non-joinder of necessary party.

S.J.M.

Moreover, the order of the Appellate Authority is dated 9-9-1996 and this Original Application challenging the order has been filed on 1-5-1998 i.e. beyond the period of limitation. Therefore, on the ground of limitation also this Original Application is liable to be rejected.

4. Coming to the facts of the matter, it appears that while the applicant was working as SPM, Bangurigaon S.O., Departmental Proceedings were initiated against him for shortage of Cash, non-acknowledgement of cash remittance, retention of excess cash and nonaccounting of the deposits in SB account etc. In the said Departmental Proceedings, the Superintendent of Post Offices, Bhubaneswar imposed the punishment of removal of service of the applicant in his order dated 1-10-1992. Thereafter, the applicant approached this Tribunal in different OAs and in OA No.808/94 he filed a M.A. No.186/95 which was disposed of in order dated 19.7.1996. The Tribunal directed the applicant to file another of the appeal dated 25-6-93 before the Director of Postal Services and accordingly the appeal having been filed and the D.P.S. Bhubaneswar having rejected the appeal, the applicant has come up in this O.A. with the prayer referred to earlier.

5. As we have already noted on the ground of limitation the petition is liable to be rejected. Moreover, it is submitted by Mr. Naik, learned ASC that on the same grounds Crl. case was instituted against the applicant in which the learned Addl. Chief Judicial Magistrate, Bhubaneswar in his order dated 8.1.1998 found the applicant guilty and convicted him to undergo R.I. for two years and to pay fine of Rs.1000/- on

each count of the charge proved against him. In consideration of the above, we hold that the applicant is not entitled to get any of the reliefs claimed for in this Original Application. The Original Application is therefore, rejected. No costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

S. SOMNATH SOM
(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.