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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

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ORIGINAL APPLICATION NO. 11 OF 1999
Cuttack this the 13th day of March, 2000

Bighnaraj Meher

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? 75.
2. Whether it be circulated to all the Benches of the No. Central Administrative Tribunal or not ?

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 13.3.2000

L. 13.3.2000
(G. NARASTHAM)
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.11 OF 1999
Cuttack this the 13th day of March, 2000

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
T HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

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Bighnaraj Meher
aged about 44 years,
Son of Late Palu Meher
Permanent Address: At/PO: Subalaya
PS: Biramaharajpur, Dist: Subarnapur
Orissa - 676062

Present Address: At Badabazar, Sonepur,
Dist: Subarnapur, Orissa-767017
Designation of the Post held: Telecom Office Asst.
Office of Last from which transferred(removed on
31.7.1997) Divisional Engineer, Telecom
Micro Maintenance(DET Micro Ware Mtce)
Brooks Hill, Sambalpur-768001

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Applicant

By the Advocates : In Person

-Versus-

1. Secretary, Department of Telecommunications, At:
Sanchar Bhawan, 20 Ashoka Road, New Delhi-110001
2. Advisor(Human Resources Development), Telecom
Commission, Sanchar Bhawan, 20-Ashoka Road,
New Delhi
3. The Chief General Manager, Telecom Circle, Orissa,
Bhubaneswar-751001
4. Telecom Dist. Manager, Sambalpur-768001
5. Director, Telecom Mtce.Eastern Telecom Region, At:
Nayapalli, Bhubaneswar-751008
6. Divisional Engineer, Telecom Microwave Mtce, Brooks
Hill, Sambalpur-768001

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Respondents

By the Advocates : Mr.S.B.Jena
Addl.Standing Counsel
(Central)

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ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL): Applicant, Bighnaraj Meher, while serving as Telecom Office Assistant was removed from service on 31.7.1997 in a disciplinary proceeding. He was also evicted from the quarters under his occupation in an eviction proceeding in July, 1998. Disciplinary proceeding was initiated because of his disobedience of transfer order dated 1.5.1991 and his unauthorised absence from duty from 7.5.1991 onwards.

2. The applicant preferred this Original Application on 12.1.1999 by engaging a counsel. Sometime after filing a rejoinder to the counter of the Department, the applicant appeared in person and expressed his unwillingness to continue the counsel engaged by him. The counsel, in turn also withdrew from the case. In this way the applicant himself argued the case in person.

3. In this Original Application filed on 12.1.1999, he made the following prayers:

- A) A direction may kindly be issued to the respondents to produce all the relevant documents in connection with the removal order dated 31.7.1997 vide letter No.F-11(29) 52 and eviction proceeding lower court records, execution of eviction done on 17.7.1998 and proceeding file dt. 17.12.1988. Inquiry files service book etc.
- B) Perusing the same the removal order passed on 31.7.1997 may kindly be quashed
- C) Pending final decision the arrears Pay & Allowance and all other financial benefits which are due on the department may kindly be paid to the applicant soon.
- D) A direction may kindly be given to settle all the service benefits like one time Bound promotion due from 7.8.1989, promotion to senior Telecom Office Assistant a restructure cadre due from the date of Junior got within 3 months, and 2nd promotion likely due from 7.8.1999.
- E) Resinstatement with place of posting in same station (Sambalpur) without any extraneous views which will be accepted by the applicant gladly

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- F) Revival of the allotment of some quarter from which evicted in a planned way
- G) Cost of litigation of Rs.20, 000/-
- H) Compensation of Rs.1, 50, 000/- for harrasment mental tortours, financial problems and social stigma caused to family due to non acceptance resignation in time and non payment of salary/subsistence allowance for 7 years and avooiding further dues; and
- I) Any other or further order this Hon'ble Tribunal deem fit and proper may kindly be passed in favour of the applicant".

These prayers being multiple in nature, ~~when~~ prima facie are not maintainable in a single application under Section 19 of the Administrative Tribunals Act, 1985 as provided under Rule-10 of the C.A.T.(Procedure) Rules, 1987 which provides that an application shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one other. In fact the respondents in their counter had taken this specific plea. When confronted the applicant submitted that the reliefs prayed for by him are consequential to one another. On the other hand Shri S.B.Jena, learned Addl.Standing Counsel appearing for the respondents(Department) contended that each relief prayed is ~~distinct~~ and ~~not~~ independent from other reliefs. To appreciate these rival contentions, we have carefully gone through the pleadings on record. The main relief sought by the applicant is for quashing the order of removal as mentioned under Para-8(B) of the Original Application. This being so, prayer for his promotion with effect from 7.8.1989, production of records relating to eviction proceeding, revival of allotment of the same quarters and so on are noway consequential. Order of removal was passed on 31.7.1997. Moreover, as the

pleadings reveal, the eviction proceeding was initiated under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. As against the eviction order the applicant preferred appeal before the District Judge, Sambalpur, who dismissed the appeal confirming the eviction order. In this view of the matter, this Tribunal lacks jurisdiction to decide any issue further relating to eviction proceeding. Similarly his prayer for promotion with effect from 7.8.1989 is also distinct from other reliefs and therefore, ^{we} cannot take note of this in this Original Application filed on 12.1.1999 as being hopelessly time-barred. As regards prayer for awarding compensation of Rs.1, 50, 000/-, this is also barred under jurisdiction point, because, the Apex Court in the case of **Maharashtra P.S.C. vs. Dr. Vanumati Purusottam Rathore** reported in 1997 SC 3719 held that Administrative Tribunals cannot award damages. So far as prayer for awarding Rs.20, 000/- towards cost of litigation ^{is concerned,} the same cannot also be entertained because imposition of costs is guided under the relevant rules framed under the A.T. Act.

Thus this Original Application can be straightaway dismissed under Rule-10 of the C.A.T. (Procedure) Rules, 1987. However, considering the fact that the applicant, ~~who~~ has personally argued this case without the assistance of any counsel, we are not inclined to dismiss this application on the ground of plurality of reliefs, but confined the hearing of the application only to the main prayer for quashing the order of removal, because the other reliefs as discussed above cannot be entertained for want of jurisdiction and/or on the ground of limitation.

4. In regard to removal of service in a disciplinary proceedings, the facts not in controversy are that earlier on 17.12.1988, a major disciplinary proceeding was initiated against the applicant on the ground of unauthorised absence from 14.4.1981 to 25.4.1988. He challenged the initiation of that disciplinary proceeding before this Tribunal in Original Application No.243/92, which was subsequently dropped vide order dated 10.10.1996 because of non-prosecution. During pendency of this proceeding, the 2nd proceeding was initiated for his unauthorised absence from duty from 7.5.1991 onwards. The 2nd proceeding ultimately ended in passing of the order of removal from service. In the instant Original Application the applicant challenges this removal order by stating that this order has been passed out of ~~malafide~~ malafide, bias, and colourful exercise of powers and complete non application of mind and as such is void ab initio. Further he takes the plea that principles of natural justice in giving him reasonable and fair chance to defend himself have not been followed. At the same time, the application is not clear on what factual grounds the order is malafide and biased. It is also silent in regard to relevant facts which may indicate that he has not been afforded reasonable opportunity to defend himself. On the other hand, the Department in their counter take the stand that principles of natural justice have been strictly followed and the order of removal is not ~~tainted~~ ^{tingled} with malice or bias. At any rate, it is not the case of the applicant that he has not been supplied with copy of the inquiry report. Similarly it also not his case that copy of the order of removal

passed by the disciplinary authority has not been supplied to him. Still it is strange that he has not annexed copies of inquiry report and the impugned order of removal passed by the disciplinary authority. Similarly he has not annexed the memo of charges. As a matter of fact, this application can be turned down as not maintainable, because, copy of the impugned order which is under challenge has not been annexed to the Original Application. Rule 4(2) of C.A.T.(Procedure) Rules, 1987 provides that an application under Section 19 of the A.T.Act shall accompany the impugned order, if any, and all other documents and annexures referred to in the application in a paper book form. When the Original Application was filed, the Registry pointed these defects. Yet, notice was ordered to be issued on the other side without admitting the application, because, the defects as pointed out by the Registry would be considered at the time of admission. In this way, the matter was finally heard for final disposal at the admission stage.

It comes to this that the applicant did not assist us in properly appreciating his arguments regarding non-obseance of principles of natural justice, malice, bias and so on. In the absence of these documents, we are not in a position to appreciate the aforesaid grounds raised by the applicant in the Original Application. Even in the departmental memo of appeal under Annexure-1, these have not been made clear. Though he described Annexure-1 as appeal, in Para-7 of the O.A. the applicant clearly stated that he would appeal only after payment of G.P.F. advance/final payment already applied. If this

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Annexure-1 on the basis of this factual averment in Para-7 is treated as not a memo of appeal, then this O.A. is not maintainable under Section 20 of the A.T.Act, because, a Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant rules as to redressal of his grievance. There is a statutory right of appeal against the imposition of penalty ordered by the disciplinary authority. Hence before filing such statutory appeal, normally one cannot come straightaway praying for quashing the impugned order passed by the disciplinary authority. Be that as it may, since subject matter of Annexure-1 has been described as an appeal, we treat it as appeal preferred by the applicant.

We are, therefore, not inclined to agree with the contention of the ~~learned counsel for the~~ applicant that the impugned order of removal is ^{contaminated} tainted with malice, bias and has not been passed following the principles of natural justice. Another ground urged during hearing that the 2nd disciplinary proceeding could not have been finalized during pendency of the earlier proceeding. We do not see any force in this contention and no authority in support of this contention has been brought to our notice by the applicant. Since the later proceeding has ultimately ended in the applicant's removal from service, the earlier proceeding automatically stands terminated.

5 In the result, we do not see any merit in this application which is dismissed and finally disposed of at the admission stage, but no order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

13.3.2006
(G.NARASTHAM)
MEMBER (JUDICIAL)