

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BE NCH: CUTTACK.

O.A.NO. 131 OF 1999.

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

Kulamani Mahakud.

...

Applicant.

-versus-

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)
VICE-CHAIRMAN ARMANDA

CE NTRAL ADM IN ISTRATIVE TR IBUNAL
CUTTACK BENCH: CUTTACK.

O.A.NO. 131 of 1999.

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

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
A N D
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDL.).

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Sri Kulamani Mahakud, Aged about 48 years,
S/o Late Mukunda Mahakud, At: Palaspithiagada,
PO: Gada Nrusingha Prasad, PS: Bhuban,
Dist: Bhenkanal.

At present: Daftary (Under suspension)
Office of the Accountant General,
Orissa, Bhubaneswar, Dist.: Khurda.

: Applicant.

By legal practitioner: M/s. G.K. Mishra,
G.N. Mishra,
A. Parida,
Advocates.

-Vrs.-

1. Union of India represented through Principal Accountant General Orissa, Bhubaneswar, Dist: Khurda.
2. Deputy Accountant General (Administration), Office of the Accountant General, Orissa, Bhubaneswar, Dist: Khurda.

S. S. S.
: Respondents.

By legal practitioner: Mr. B. Dash, Additional Standing Counsel
Mr. B. K. Nayak, Additional Standing counsel

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O R D E R
(oral)

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, under section 19 of the Administrative Tribunals Act, 1985, the petitioner, who is a Daftry in the Office of the Accountant General, Orissa, has prayed for quashing the notice at Annexure-1 and the order of suspension at Annexure-2 and the charges at Annexure-3 issued against him. Applicant's case is that he is a member of the executive committee of an Employees Association which has been wrongly taken by the Respondents as non-recognised even though the Association is a recognised one. Because he is doing the legitimate Union work, in order dated 17.7.98, at Annexure-1, his explanation was called for on the alleged use of a microphone and other accessories inside the office premises during office hours on 15.7.1998 and even without receipt of his explanation, the applicant was placed under suspension in order dated 22-7-1998 at Annexure-2. Charges were issued on 16.10.1998 at Annexure-3. Applicant has stated that the charges relate to his legitimate union activities and in the context of the above facts, the applicant has come up in this petition with the prayers referred to earlier.

S Som.

2. Respondents have filed counter denying the averments of the applicant and opposing the prayers made in this Original Application. It is not necessary to go into too many facts of this case.

3. We have heard Mr. G. K. Mishra, learned counsel for the applicant and learned Additional Standing Counsel appearing for the Respondents and have also perused the records.

4. It has been submitted by learned additional Standing Counsel that during the pendency of this Original Application, the applicant has been reinstated and the order of suspension has been revoked in order dated 6.4.1999, which is at Annex-7, to MA 229/99. It is submitted by learned counsel for the petitioner that while revoking the order of suspension, the Departmental Authorities have imposed certain conditions on him and it is suggested by him that the Tribunal should take a view on the conditions imposed on the applicant by the Departmental Authorities and pass such equitable order as the Tribunal may deem fit and proper. In view of the above submission, the last prayer of the applicant for quashing the charges can be taken up first.

5. We find that the charges, at Annexure-3, relate to his alleged misbehaviour with the Chowkidar. As the charges are under enquiry, it would be necessary for the applicant to appear in course of the enquiry and plead his case before the Inquiring Officer or Disciplinary Authority as the case may be. The prayer for quashing the charges is accordingly rejected.

6. As regards the other prayer for quashing of the order of suspension, we note that on 6.4.1999, the order of suspension has been revoked and therefore, this prayer has become infructuous.

7. We have considered the submissions made by learned counsel for the applicant regarding the conditions imposed on the applicant while revoking the order of suspension. There are altogether six conditions which have been imposed on him. We find that condition Nos. 'A', 'B', 'C', 'D' and 'E' in this order do not in any way infringe the rights of the applicant. These conditions lay down that he should not organise, take up, take part or attend

to any meeting, demonstration and discussion in connection with his so called association activity within the office premises even during lunch hours without prior permission from the competent authority. The other conditions ^{enjoining} _{J.S.M.} enjoying him not to cause disturbances in the peace and tranquility in the working atmosphere of the office. He shall not create riotous and disorderly behaviour inside the office premises, not to act in a discourteous manner in the performance of his official duties and not to insult ^{be} _^ and insubordinate in relation to his official dealings. ^{J.S.M.} These are conditions which every Govt. servant is supposed to abide by and therefore, the applicant has not been put in any disadvantage position by these conditions.

8. The last condition is that he shall not put forth any matter with the administration excepting his personal service matters. We are unable to see the logic of this condition because in case the applicant is holding a responsible position of an Union then as a part of the activity of an Union, he has to lay grievances of the employees to the notice of the employer and therefore, it can not be said that he can only bring to the notice of the authorities his personal grievance. In view of this, with regard to the condition No. F imposed in the order dated 6.4.1999 at Annexure-7, we order that in case the applicant is holding a responsible position ⁱⁿ a recognised Union in the Office of the Respondents then as a part of such Union activities, he should be permitted to bring up the legitimate grievance of the employees to the notice of the authorities. While so doing, applicant must observe official decorum and discipline.

9. With the above observations and directions, the Original Application is disposed of. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

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(SOMNATH SOM)
VICE-CHAIRMAN 2000

KNM/CM.