CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.160 of 1999

Cuttack, this the 21st day of July, 2000

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CORAM:HON'BLE MR.SOM NATH SOM, VICE CHAIRMAN
HON'BLE MR. JASBIR S.DHALIWAL, MEMBER(J)

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Sri Sangram Singh Mishra, son of Late Balaram Mishra, Vill. & P.O. Dadarlunda, Via:Mujagada, Distt.Ganjam (O).

...Applicant

By Advocate:Sh.P.K.Padhi

Versus

1. Union of India, represented by its Member(Personnel), Office of the Director General (Posts), Dak Bhawan, Sansad Marg, New Delhi-110001.

2. Chief Post Master General (Orissa) at P.O. Bhubaneswar, distt.Khurda - 751001.

3. Director of Postal Services (Berhampur), at P.O.:Berhampur, Distt.Ganjam (O).

4. Superintendent of Post Offices, Aska Postal Division, At P.O.: Aska, Distt.Ganjam (Orissa).

...Respondents

By Advocate:Sh.A.Routray

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ORDER
(Delivered by Hon'ble Mr.Jasbir S.Dhaliwal, JM)

This O.A. has been filed by Sri Sangram Singh Mishra feeling aggrieved by order of the Disciplinary Authority and the appellate order, dated 31.3.1995 & 7.2.1996, respectively, vide which he has been removed from service and his appeal has been dismissed (Annexures 5 & 6). He has prayed for quashing these orders with a direction to respondents to reinstate him

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in service with all consequential benefits and back wages.

2. While working as EDBPM, Dadarlunda in Aska Postal Division in Orissa Circle, applicant was served with a chargesheet under Rule 8 of the EDAs (C&S) Rules, 1964, dated 12.2.1993 for alleged defalcation of a Savings Bank Account and withdrawal from the same. The Charge Memo is Annexure I to the O.A. Enquiry was held by the Inquiry Officer who submitted his report dated 6.12.1994 holding that the charges against the applicant were not proved (Annexure 2). Claims that the Disciplinary Authority (Respondent No.4) had made up his mind to reinstate the applicant and had asked him to produce income certificate and had also supplied him a copy of the inquiry report through letter dated 13.12.1994 asking him to file his representation. Since the report of the Inquiry Officer was in his favour, applicant submitted that he had nothing more to say on the same. Letter of Respondent No.4, asking the applicant to produce his defence/representation is Annexure 4. The Disciplinary Authority, however, recording his own findings passed order of removal, which was received by the applicant (Annexure 5).

3. Applicant pleads that Respondent No.4 had not communicated to him any ground of disagreement with his own reasons for punishing him. He filed an appeal to Respondent No.3 on 17.5.1995 raising a number of

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grounds but the Appellate Authority, without application of mind, rejected the same without disclosing any of the grounds raised by the applicant, through order dated 7.2.1996 (Annexure 6). Applicant preferred a petition to Member(Personnel) on 10.11.1998 under Rule 16 of the 1964 Rules but without any result. There is delay in filing the O.A. and the applicant claims that he has filed a Medical Certificate seeking condonation of delay. He challenges the orders at Annexure 5 and Annexure 6 mainly on the ground that respondents have made a mockery of the principles of natural justice as the Disciplinary Authority should have supplied to the applicant his reasons of disagreement with reasons recorded by the Inquiry officer and thereafter given him an opportunity of representing against the same. He has, thus, been denied proper opportunity of hearing. This, he claims, is violative of Article 311 of the Constitution of India. The second ground is against the appellate order saying that it is in violation of mandatory provisions of Rule 27 of the CCS(CCA) rules, as it is a non-speaking order.

4. Respondents have filed a detailed reply pleading therein that enquiry was held in accordance with the rules, no illegality has been committed while passing the orders, Annexures 5 & 6. They have given facts leading to misappropriation of an amount of Rs.500/- by the applicant by forging signatures of the depositor

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and other facts have also been mentioned regarding another withdrawal of Rs.500/-. Respondent No.4 has given a detailed order recording his findings after appreciation of evidence. He has also given his reasons of disagreement with the findings of the Inquiry Officer. This was the procedure under Govt. of India, DOPT O.M. dated 27.11.1995 as was in vogue at the relevant time. A second order requiring communication of reasons of disgreement before passing the punishment order was circulated through Annexure R-2, dated 5.9.1996. Final order has been passed on 31.3.1995 and, thus, the order passed subsequent to the order of the Disciplinary Authority could not have been even thought of. The applicant has tried to revive a case which had become final only after coming to know of Annexure R-2 which he cited in his review petition to Member (Personnel) after a lapse of 3½ years. They plead that this O.A. is barred badly under the law of limitation and should not be admitted in view of the provisions of Section 21(1)(b) of the Administrative Tribunals Act, 1985. Submission of certificate by the applicant does not explain the reasons for the delay satisfactorily and does not indicate that it was beyond his control to come to the Tribunal within limitation. Applicant has filed a rejoinder.

5. We have heard the ld. counsel for the parties at length.

6. On the point of limitation, the law is

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well-settled that the Tribunal should not entertain and decide an O.A. which is otherwise barred under the law of limitation. Court can consider if there are good and sufficient reasons for condonation of delay. In the present case, the appellate order was passed on 7.2.1996 Applicant has not at all pleaded in the O.A. as to whether he was totally incapacitated physically or mentally which would have rendered him incapable of coming to the court of law within the period of limitation. His petition to Member(Personnel) itself was filed much beyond the period of limitation which, as per applicant, was dated 10.11.1998, i.e. almost 2 years and 9 months after the appellate order was passed. We have to reckon limitation from order at Annexure 6, dated 7.2.1996. Present O.A. has been filed on 12.4.1999 which would make it after 3 years and 2 months from the relevant date in Annexure 6. Firstly, there is no plea in the O.A. which may indicate that there was sufficient and good grounds which prevented the applicant from coming to the court within the period of limitation or which may indicate good grounds for condonation of delay. Procuring of a medical certificate from a doctor in itself cannot have the effect of condoning the delay. In his M.A. 231 of 1999 he mentions that he was under treatment of Dr.Patnaik of Brahmpur and after his recovery had preferred petition to the Member(personnel). A copy of Medical Certificate (Annexure 9) was issued on 10.11.1998, the precise date when he preferred his review petition. It only indicates that the applicant was suffering from

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Reumatoid Arthritis with depression. He certifies him to be fit for joining his duty. In the opinion of this Court, this is not a sufficient ground for condoning the daly of 3 years. Through orders dated 16.4.1999, this Bench had observed that this M.A. would be considered at the time of adjudication of the case. Considering the facts of this case, we find it not to be a fit case for condonation of delay. In the case of SECRETARY TO GOVT. OF INDIA and SHIV RAM MAHADU GAIKWARD : 1995 (Supple.) 3 SCC 231 and in the case of RAMESH CHAND SHARMA VS. UDHAM SINGH KAMAL & OTHERS : 2000(1) ATJ 178 (SC), it has been held by the Hon'ble Supreme Court that in view of the provisions of Section 21, the Tribunal had no jurisdiction to admit and dispose of the O.A. on merits. In view of the statutory provisions, such an O.A. should be dismissed. We find the facts of the present case fully covered under the ratio of these two judgments.

7. Our attention has been drawn to Annexure R-2, an OM issued by Govt. of India, DOPT, which came to be circulated by the Department of Posts through letter dated 31.5.1996. It was in this letter that O.M. dated 27.11.1995 was circulated requiring supply of grounds of disagreement by the Disciplinary Authority with the reasoning of the Inquiry Officer. In the present case, however, the order of the Disciplinary Authroity had already been passed much prior to it which was under earlier instructions issued by DOPT which did not make

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it mandatory to supply the reasons of disagreement by the Disciplinary Authority. In these circumstances, the operation of the order at Annexure R-2 can at best be held to be prospective and will not invalidate the order passed prior to its circulation up to the date of the order as the order of the Disciplinary Authority is dated 31.3.1995.

8. Non-supply of grounds of disagreement by the Disciplinary Authority at the most can fall under non-adherance to the principles of natural justice. It has been accepted in our country that in quasi-judicial or administrative orders, the authority must act judiciously and must afford a fair and proper opportunity to the officer/official facing disciplinary proceedings of defending himself, but the Courts have given a caution that not in all cases where it is noticed that principles of natural justice have not been adhered to, the order should not be quashed merely on this ground. Since controversy has been coming before this Tribunal on this account again and again, we intend di lating upon this point of law and the law laid down by the Hon'ble Supreme Court while interpreting the relevant rules on disciplinary proceedings.

9. There is no doubt with the proposition that once we accept that if the Inquiry Officer is other than the Disciplinary Authority, a copy of his report should ordinarily be supplied to the person facing the proceedings before the Disciplinary Authority proceeds

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to consider the proceedings and chooses to record his findings. Similarly, if he is differing with the findings recorded by the Inquiry Officer, we have to consider what are the requirements under the law. If he records his grounds of difference, it would be in fitness of the circumstances that he should supply his reasons and can give an opportunity to the concerned official to make a representation, if any. This would be in accordance with the principles of natural justice. But the question is, if this is not done, is that fatal to the enquiry proceedings. In the case of MANAGING DIRECTOR, ECIL, HYDERABAD & OTHERS VS. B. KARUNAKAR & ORS. : 1993 SCC (L&S) 1184, where the Hon'ble Supreme Court was considering the desirability of supply of copy of enquiry report and the effect if the same is not supplied, it was observed that not in all cases where the report is not furnished that would have made any difference to the ultimate punishment awarded to him. In some cases grave prejudice may bave been caused, whereas in other cases it may not have made any difference at all. It was observed : "The theory of reasonable opportunity and principles of natural justice has been evolved to uphold the rule of law and to assist the individual to vindicate his just rights. They are not incantatious to be invoked nor rites to be performed on all and sundry occasions." Whether, in fact, prejudice has been caused to an employee or not on account of denial of report to him, has to be considered on the facts and circumstances of each case. It was held that if even after furnishing of the report no

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different consequence would have followed, it would be a perversion of justice to permit the employee to resume duty and get all consequential benefits - if the order of removal from service is set aside.

10. This question came to be comprehensively dealt with by the Hon'ble Supreme Court in the case of STATE BANK OF PATIALA & OTHERS VS. S.K.SHARMA : JT 1996(3) SC 722. It was held that the Court would be required to examine whether non-observance of principles of natural justice has caused any prejudice to the individual. The question being considered was a claim under the principle of Audi Alteram Partem. The Court observed : The justice means between both the parties and interest of justice may demand that the guilty should be punished and the technicalities and irregularities which do not occasion failure of justice are not allowed to defeat the ends of justice. Principles of natural justice cannot be perverted to obtain the very opposite of justice. The principles in the context of disciplinary enquiries were summarised which are quite comprehensive in this judgment running into 7 such guidelines. It was held that violation of any of the procedural provisions cannot be said to automatically vitiate the enquiry held or order passed. The next question would be whether such a violation of principles of natural justice has prejudiced the delinquent employee in defending himself properly and effectively. If no prejudice is established to have resulted, no interference is called for. There are

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certain procedural provisions which are of fundamental character whose violation by itself amounts to prejudice, like denying an employee an opportunity to lead defence in his evidence or non-supply of the essential relied upon documents etc. The other provisions may only be desirable. If the procedural provision is not mandatory, complaints of its violation are to be examined from the standpoint of substantial compliance and order can be set aside if such viotlation ——— has occasioned a prejudice. If, however, the provision is conceived in the interest of the person proceeded against or in public interest and is not of mandatory character, the Court can choose to make appropriate directions. Tribunal should make a distinction between a total violation of natural justice and violation of a facit of the said rule which would be in the nature of 'no opportunity' and 'no adequate opportunity'. In the case of the former, the order will have to be set aside whereas in the latter case, it shall be examined as to whether it causes prejudice and there is no failure of justice.

11. In the case of M.C.MEHTA VS. UNION OF INDIA & OTHERS : JT 1999(5) SC 114 it was held that it is not always necessary for the court to strike down the order merely because the order had been passed against the petitioner in breach of natural justice. If on the admitted or undisputed facts only one conclusion is possible and permissible, the court need not issue a writ merely because there is a violation of principles of natural justice. Thus, not in every case where

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violation of principles of natural justice is indicated, the court is required to quash the order of Disciplinary Authority.

12. Before examining the facts of the present case, the position under the law regarding the Inquiry Officer and Disciplinary Authority also requires to be mentioned. In the case of S.K.SINGH VS. CENTRAL BANK OF INDIA : 1997 AI SLJ 235, it was held that non-adherance of principles of natural justice in that case, there being no prejudice caussed, was not fatal. In the case of BANK OF INDIA VS. DEGALA SURYA NARAYNA : 1999(4) SLR 292, it was held by the Court that the Disciplinary Authority on receiving the report of the Inquiry Officer may or may not agree with the findings recorded by the latter. In the case of disagreement, the Disciplinary Authority has to record his reasons for disagreement and then to record his own findings for the evidence available on record to be sufficient for such exercise. He may also choose to remit the case to the Inquiry Officer for further enquiry and report. In the case of STATE BANK OF HYDERABAD VS. RANGACHARI : (1994) 27 STC 837, the Inquiry Officer had found only two charges proved and the Disciplinary Authority had affirmed his findings and had recommended imposition of penalty to the Appointing Authority as the Disciplinary Authority himself was not competent to award major penalty. The Appointing Authority differed with the findings of the Inquiry officer and the Disciplinary Authority and recorded that even the charges held to be not proved by the Inquiry Officer and Disciplinary Authority were, in

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fact proved from the evidence and proceeded to impose the penalty directly. It was held that the Appointing Authority was not bound by the recommendations of the Inquiry Officer and the Disciplinary Authority and was competent to record its own findings on the charges held to be not proved by the others. In the case of STATE BANK OF INDIA VS. S.S.KOSHAL : (1994) 27 ATC 834, considering a case identical with the present case, the Hon'ble Supreme Court held that where a Disciplinary Authority itself disagrees with the Inquiry Officer's findings which were favourable to the delinquent, even in such a case affording of a fresh opportunity to the delinquent of hearing or representation was not contemplated under the principles of natural justice or the regulations. It was held that Inquiry Officer's report is not binding on the Disciplinary Authority and it is open to the Disciplinary Authority to come to its own conclusions as consideration of report of Inquiry Officer is not in the nature of an appeal from Inquiry Officer to Disciplinary Authority. It is one and the same proceedings as the Disciplinary Authority himself could have held the enquiry instead of appointing an Inquiry Officer. In a recent judgment in the case of JUDICATURE AT BOMBAY VS. SHASHI KANT : AIR 2000 SC 20, it has been held that the Disciplinary Authority is not bound by the findings or the recommendations of the Inquiry Officer as these are nothing but deduction on materials. The decision making authority is the punishing authority and it has the power to come to its own conclusions. It was further held that it is not

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necessary that the Disciplinary Authority should "discuss materials in detail and contest the conclusions of the Inquiry Officer". The Hon'ble Supreme Court in this judgment placed reliance on judgments in the case of A.M.De SILVA VS. UNION OF INDIA : AIR 1962 SC 1130 and in the case of UNION OF INDIA VS. H.C.GOYAL : AIR 1964 SC 364 which is by a Constitution Bench, and wherein it had been held that the Govt. may agree with the report or may differ either wholly or partially from the conclusions recorded in the report of the Inquiry Officer.

13. The law is, thus, settled that there is no requirement under the rules that the Disciplinary Authority must follow the findings recorded by the Inquiry Officer or that while considering those findings he is dealing with the same as an Appellate Authority. It stands settled that it is the Disciplinary Authority himself who is competent to record his own findings on the evidence recorded by the Inquiry Officer as he alone is competent to record such findings and pass a punishment order. Job of Inquiry Officer is to record evidence of both sides, afford reasonable opportunity to delinquent official in defending himself in the disciplinary proceedings and thereafter submit the same to the disciplinary authority. In practice, Inquiry Officer is also recording his findings which in the opinion of the Hon'ble Supreme Court, are nothing but an expression of opinion by him which is not at all binding on the Disciplinary Authority. It is the same disciplinary proceedings where enquiry is held by the

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Inquiry Officer and decisions are taken by the Disciplinary Authority. We will have to consid3er the contention of the applicant in the light of this law.

14. First of all, we deal with the question whether any prejudice has been caused to the applicant in these disciplinary proceedings. If we assume a situation where an Inquiry Officer may be in league with the delinquent official facing proceedings and he chooses to record some findings favourable to him, in our opinion, the Disciplinary Authority will not be bound by the same and under the law is competent to discuss the evidence to arrive at its own conclusions and may choose to record the grounds of difference with the Inquiry Officer. The provision of supply of the grounds on disagreement would fall in the category of cases which are not mandatory, but have been devised only to assist the delinquent official. Deviation from the same cannot be held to be fatal to the proceedings itself. Communication of the same in the present case is found to be not at all prejudicial to the applicant as he has had a thorough opportunity of challenging each and every point and para before the Appellate Authority. Reading of the report of the Disciplinary Authority in fact shows that it is a very detailed order wherein all the relevant aspects have ben considered right from the Articles of Charge, the documents produced and examined from exihibits S.1 to S.10, the 2 PWs and the 4 DWs and thereafter the Disciplinary Authority has proceeded to examine the defence recorded by the Inquiry Officer, his own grounds, to arrive at findings and thereafter the

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final conclusion. The applicant has had an opportunity of challenging this before us also but has failed to elicit even a single ground which may induce us to come to a different conclusion even though we are not an Appellate Authority. If the findings had been perverse we would not have hesitated to remit the case back for affording an opportunity by representing before the Disciplinary Authority. In our opinion, in this ca se no prejudice to the applicant apparently has been caused Following the dictum of the law laid down by the Apex Court that the principles of natural justice are not some rites or incantations to be observed and that merely on slight variation or deviation from the same, the orders should not be interfered with. We find that it is not a fit case where we should interfere with the order of the disciplinary authority merely on the ground that the Disciplinary Authority had failed to supply him the grounds of his disagreement. In any case, the O.M. issued by the DOPT on this aspect, Annexure R-2, came to be issued much after the order of the Disciplinary Authority.

15. The contention of the applicant that non-grant of notice about the points of disagreement by the Disciplinary Authority with that of the Inquiry Officer is violative of provisions of Article 311(2) of the Constitution of India is also found to be factually incorrect. We have already come to the conclusion that in the facts and circumstances of this case firstly it is not mandatory under Article 311 to give notice on grounds of disagreement in all cases and secondly that

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in the present case no prejudice has been caused to the applicant by non-supply of the grounds recorded by the Disciplinary Authority. At the cost of repetition, we record that the Hon'ble Supreme Court in a Constitution Bench judgment in the case of UOI vs. H.C.Goyal (supra) and many other judgments, discussed above, has held that the opinion of the Inquiry Officer is his personal opinion and is not relevant to the opinion to be arrived at by the Disciplinary Authority. In fact, even if the Inquiry Officer does not record his findings, the Disciplinary Authority is under an obligation to give its own conclusion on appreciation of the evidence adduced before the Inquiry Officer. Provisions of Article 311, as these stand after 42nd amendment, are to the effect that : "Provided that where it is proposed after such enquiry to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such enquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed." All that is required under this provision is that a person shall not be dismissed or removed except after an enquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. In our opinion, such opportunity has been afforded to the applicant where he participated in the enquiry and had the opportunity of cross-examining the witnesses, examining his own witnesses and making his submissions. There is, thus, complete compliance with the provisions of law. We have found that the orders impugned are very well reasoned and speaking

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orders.

16. On the contention of the applicant that the appellate order is not a speaking order, it was held in STATE BANK OF BIKANER & JAIPUR VS. SHRI PRABHU DYAL GROVER : 1996(1) SLJ 145 (SC) that even if the Appellate Authority had not recorded reasons while agreeing with the views of the Disciplinary Authority, that will not vitiate the appellate order. The Appellate Authority is required to see as to whether the findings recorded are justified by the evidence, as to whether the penalty imposed is inadequate, excessive or proper and thereafter to pass orders either confirming enhancement, reducing or setting aside the penalty or to remit back the case. there is no mandatory rule for recording reasons for its own orders. It was held that even if one assumes by an implication that the reasons were required to be recorded, the order of the Appellate Authority still cannot be invalidated when the court itself finds that the order had been passed after considering the record and proceedings of the disciplinary action and the submissions made by the charged officer. This would not be sufficient application of mind. A reading of the appellate order in the present case shows presence of all these factors as also application of mind by the Appellate Authority. In view of the law laid down by the Hon'ble Supreme Court in the aforecited case, we do not find any grounds made out to invalidate the order of the appellate authority.

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17. For the reasons discussed in the foregoing paras, we find the O.A. to be devoid of merits. It is, accordingly, dismissed. In the peculiar facts of this case, the parties are, however, left to bear their own costs.

(JASBIR S.DHALIWAL)

MEMBER(J)

SOMNATH SOM,VICE-CHAIRMAN

18. I have had the benefit of going through the Order prepared by my brother Mr.Jasbir S.Dhaliwal, Member(Judicial) which I have just now delivered. Though I agree with his conclusion that the Original Application is to be rejected, I would like to set out my reasons separately.

19. Facts of this case have been fully brought out inthe order of my brother and it is not necessary for me to repeat the same.

20. Along with this OA the petitioner has filed an MA No. 231 of 1999 praying for condonation of delay.On the day the OA was taken up, in order dated 16.4.1999 it was directed that the point regarding condonation of delay would be taken up while deciding theOA. The applicant was working as EDBPM, Dadarlunda Branch Post Office and in a disciplinary proceeding initiated against him the disciplinary authority, the Superintendent of Post Offices, Aska (respondent no.4) removed him from service in order dated 31.3.1995 (Annexure-5). His appeal dated 17.5.1995 was rejected in order dated 7.2.1996 (Annexure-6)

of the appellate authority. The applicant filed revision before Member (Personnel), P&T Board on 17.11.1998 (Annexure-7). Thus, the revision was filed almost two years and nine months after the appellate order was passed. The present Application has been filed on 12.4.1999, three years and two months after the order of the appellate authority. The applicant has filed a petition for condonation of delay which has been numbered as M.A.No.231 of 1999. In this petition he has stated that he was under treatment of various doctors and was admitted in Neurosurgery Department of M.K.C.G.Medical College,Berhampur. It is stated that after his discharge from the Medical College Hospital he was under the treatment of Dr.R.C.C.Patnaik from 2.1.1996 to 10.11.1998 (wrongly mentioned as 10.11.96 in the MA). He has stated that after his recovery he immediately preferred revision petition to Member (Personnel), P&T Board (respondent no.1). In support of his illness the applicant has enclosed a C.T.Scan Report issued by Acharya Harihara Regional Centre for Cancer, Cuttack. This report is dated 22.3.1993. He has also enclosed the discharge certificate from the Department of Neurosurgery, S.C.B.Medical College, Cuttack. This discharge certificate shows that he was admitted on 21.3.1993 and was discharged on 1.4.1993. From these two documents it is seen that the applicant was hospitalized in SCB Medical College Hospital, Cuttack, from 21.3.1993 to 1.4.1993. In his MA he has, however, mentioned that he was admitted in Neurosurgery Department of MKCG Medical Colege,Berhampur. Thus, the documents enclosed by him do not support his statement in paragraph 4 of his MA. He has also enclosed a certificate from one Dr.R.C.C.Patnaik of Berhampur, stating that the applicant was under his

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treatment from 2.1.1996 to 10.11.1998 and on examination on 10.11.1998 he was found fit. I have already mentioned that the applicant has wrongly mentioned in his MA that the medical certificate is upto 10.11.1996 whereas it is actually for the period from 2.1.1996 to 10.11.1998. Thus, there is prifacie contradiction between his averment in the MA and the medical certificate. In any case the fact that he was hospitalized in SCB Medical College,Cuttack, in the year 1993 in the months of March and April does not explain why he was unable to come before the Tribunal within the period of limitation after the appellate order was passed on 7.2.1996 rejecting his appeal. In the context of the above, the medical certificate obtained by him from a private doctor for the period from2.1.1996 to 10.11.1998 does not inspire much confidence in me regarding the grounds urged by him in support of his inability to come to the Tribunal within the period of limitation. Moreover, this petition for condonation of delay is also not supported by any affidavit. Sub-rule (4) of Rule 8 of Central Administrative Tribunal (Procedure) Rules,1987 requires that where the applicant seeks condonationof delay he shall file a separate application supported by an affidavit. This mandatory requirement has not been fulfilled by him. In the absence of an affidavit and in view of the above contradiction mentioned by me, I am not inclined to accept his grounds for not filing this OA within the period of limitation. In view of this, I hold that the application has been filed much beyond the period of limitation and is therefore liable to be rejected. It is so ordered.

21. In view of my above finding it is not necessary for me to consider the other grounds mentioned inthe order of my brother for rejecting the O.A. and I express no opinion with regard to the findings of my brother in respect of those points.

22. In the result, therefore, the Original Application is rejected but without any order as to costs.

Somnath Som 21.7.2000

(SOMNATH SOM)
VICE-CHAIRMAN

Cuttack,July 21, 2000/AN/PS