

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

1. For Admession
 2. Case Records of CA 322/98
 Lemked up.

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 30/8/01

Bench

21. ORDER DATED 31-8-2001.

Learned counsel for the applicant Shri G.N. Mohapatra and his associates are absent. There is also no request for adjournment. On the last two occasions on 2.3.2001 and 17.7.2001 also learned counsel for the applicant was absent without any intimation. As in this instant case pleadings have been completed long ago it is not possible to adjourn the matter further and drag on the matter specially in the absence of any request from the side of applicant. We have therefore, heard Shri B.K.Bal, learned Additional Standing Counsel for the Respondents and have also perused the records.

In this O.A. applicant has prayed for quashing the letter dated 23.2.1999 at Annexure-6 issued by the I.O. rejecting a time petition filed by applicant before the I.O. for submission of his final defence statement. He has also prayed for quashing the letter dated 3.4.1994 at Annexure-7 from the Works Manager, Kharagpur who presumably the Disciplinary Authority in respect of applicant enclosing a copy of the report of the I.O. dt. 8.3.1999 to him and requiring the applicant to file his representation if any against the report of the I.O.

Respondents have filed counter opposing the prayers of applicant. For the present purpose it is not necessary to go into too many facts of this case. Admittedly disciplinary proceedings were drawn up against the applicant.

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In course of the proceedings he was given time till 3.2.1999 by the I.O. to submit his final defence statement after conclusion of the hearing. The applicant in his letter dated 9.2.1999 wanted fifteen days time and accordingly extra ten days time was allowed i.e. till 12.2.1999. Applicant filed another application on 20.2.1999 asking for calling one Upadhyaya as witness. He had also asked for copies of certain documents. The I.O. for the reasons indicated in the order at annexure-6 rejected the petition. Thereafter enquiry was completed and second impugned order dated 8.4.1999, the copy of the enquiry report was supplied to him. This letter was issued on 8.4.1999 and it appears that immediately after getting this letter and the report of the enquiry officer, the applicant filed this O.A. on 15th of April, 1999 with the aforesaid prayers. Law is well settled that in a disciplinary proceedings the scope of interference by the Tribunal is very limited. The Tribunal can only interfere if reasonable opportunity has not been given to the delinquent officer or rules of natural justice have been violated. Interference can also be made if the findings are based on no evidence or patently perverse. Thus, in case where the disciplinary proceedings have been concluded and punishment imposed the scope of interference by the Tribunal is limited in the manner indicated above. Necessarily therefore, in case where the disciplinary proceedings are still continuing, the scope of interference by

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the Tribunal is completely non-existence. In the instant case, if the applicant has any grievance with regard to the report of the I.O. he is free to make a representation to the Disciplinary Authority against the findings of the I.O. but without doing that he has straightaway come to this Tribunal. In view of this we hold that his prayer for quashing the annexure-7 is without any merit and this prayer is accordingly rejected.

His first prayer for quashing the letter dated 23.2.1999 of the enquiry Officer can not also be accepted because in case the applicant has been prejudiced by the above order of the I.O. he is free to raise this point in his representation against the report of the I.O.

In view of this we hold that the petition is without any merit and the same is rejected.
No costs.

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(G. NARASIMHAM)
MEMBER (JUDICIAL)

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VICE-CHAIRMAN

KNM/CM.