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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 175 of 1999
Cuttack this the 27th day of April, 2000.

G.Rambabu

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Applicant

-VERSUS-

Union of India & Others ...

Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to 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

27/4/2000

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No.175 OF 1999
Cuttack this the 27th day of April, 2000

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

...

Sri G.Rambabu, age about 35 years
S/o. Late G.Veeranna
At: Qtrs. No.152/4, Railway Traffic
Colony, At/Po/Dist: Rayagada

...

Applicant

By the Advocates

M/s.A.K.Nanda
J.Nayak

-VERSUS-

1. Union of India represented by its
General Manager, S.E.Railway
Garden Reach Road, Calcutta
West Bengal
2. Senior Divisional Operations Manager
S.E.Railway, Waltare,
At/Po/Dist: Waltare
Andhra Pradesh
3. Divisional Operations Manager
S.E.Railway, Waltare
At/Po/Dist: Waltare
Andhra Pradesh

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Respondents

By the Advocates

Mr.P.K.Mishra
Addl.Standing Counsel
(Railways)

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O R D E R
ORAL

MR. SOMNATH SOM² VICE-CHAIRMAN: In this application the petitioner has prayed for quashing the order dated 20.1.1999 vide Annexure-6 issuing him to show cause as to why he should not be removed from service, order dated 25.2.1999 vide Annexure-8 removing him from service and order dated 17.3.1999 vide Annexure-10 of the appellate authority rejecting his appeal. Respondents have filed their counter opposing the prayer of the applicant.

2. Heard the learned counsel appearing for the respondents. None appeared for the applicant when called.

3. For the purpose of considering this Original Application it is not necessary to go into too many facts of this case. The admitted position between the parties is that the petitioner was holding the post of Token Porter Man Grade B. He was tried in a criminal case unconnected with his service under the Railways and in Sessions case No.20/97 he was convicted by the learned Chief Judicial Magistrate-cum-Asst. Sessions Judge, Rayagada under Section 325 of I.P.C. and sentenced to undergo rigorous imprisonment for three years. After the conviction notice at Annexure-6 had been issued to the applicant to show cause as to why he should not be removed from service and after considering his representation in order at Annexure-8 he has been removed from service and his appeal petition has also been rejected vide Annexure-10. It is also the admitted position of the parties that against the order of the Sessions Court convicting and sentencing him to rigorous imprisonment the applicant has filed an appeal and the same is pending. It has been submitted by the applicant that as the appeal is pending and conviction and sentence have been stayed

S. J. Som

he should not have been dismissed from service on the basis of conviction. Law is well settled that when against the conviction and sentence a person files an appeal, only the sentence is stayed, but not the conviction. In view of this contention that the conviction of the applicant has been stayed by the Appellate Court is without any merit and the same is rejected. The Department can take up action for imposition of punishment against an employee convicted in a criminal case. In view of this as the applicant has been ^{undergo} convicted and sentenced to 3 three years rigorous imprisonment, and as his conviction is still in force, the action of the respondents in removing the applicant from service is justified.

In view of the above discussion, we hold that the applicant is not entitled to any of the reliefs prayed for and therefore, the O.A. is held to be without any merit and the same is rejected, but without any order as to costs.

A.
(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

B.K.SAHOO//