

10  
CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 183 OF 1999  
Cuttack, this the 26th day of September, 2000

Sri Panchanan Singh, aged about 50 years, son of late  
Akshayananarayan Singh, Sr.Accountant, in the office of  
A.G.(A&E), Orissa,Bhubaneswar, Dist.Khurda

.....

Applicant

Vrs.

Union of India and another ...

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  
(SOMNATH SOM)  
VICE-CHAIRMAN  
26.9.2010

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 183 OF 1999  
Cuttack, this the 26th day of September, 2000

CORAM:

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

.....

Sri Panchanan Singh, aged about 50 years,  
son of late Akshayanarayan Singh, Senior Accountant in  
the office of A.G.(A&E), Orissa, Bhubaneswar,  
District-Khurda

.....

Applicant

Advocates for applicant - M/s G.K.Mishra  
G.N.Mishra  
A.Parida

Vrs.

1. Union of India, represented through the Principal Accountant General, O/o the A.G.(A&E), Orissa, Bhubaneswar, Dist.Khurda.
2. Deputy Accountant General (Administration), C/o The A.G.(A&E), Orissa, Bhubaneswar, Dist.Khurda

.....

Respondents

Advocate for respondents - Mr.B.K.Nayak  
ACGSC

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

*S Jom.*  
In this application the petitioner has prayed that the substituted chargesheet issued against him on 5.3.1999 at Annexure-7 should be quashed together with the conditions imposed in order dated 7.4.1999 at Annexure-11. The respondents have filed counter opposing the prayer of the applicant. For the purpose of considering this petition it is not necessary to go into too many facts of this case. A few undisputed facts can however be noted.

2. The applicant is working as Senior Accountant in the office of Accountant General (A&E), Orissa. The applicant has stated that because of union rivalry he had to organise meetings off and on of his association in April, May, June, July and August during lunch hours in the office of Accountant General, Orissa. For this an explanation was called for from him in order dated 17.7.1998 (Annexure-3) in which it was mentioned that the association of which he is purportedly an office bearer is an unrecognised association. In this letter it has been mentioned that on three occasions, i.e., on 2.7.1998, 15.7.1998 and 16.7.1998 he held meetings inside the office premises in spite of denial of permission by the authorities and indulged ~~in~~ <sup>JJm.</sup> in unlawful activities using microphones and slogans within the office premises during the normal working hours. The applicant has stated that even though he was asked to show cause by 27.7.1998 he was placed under suspension on 24.7.1998. The applicant approached the Tribunal in OA No. 666 of 1998 which was disposed of in order dated 18.3.1999 (Annexure-6). The Tribunal directed the departmental authorities to complete the enquiry within sixty days from the date of receipt of copy of the order. The applicant was also directed to co-operate in the enquiry and it was ordered that in case the applicant does not co-operate without sufficient reason to the satisfaction of the inquiring officer, then the enquiry should be held ex parte within the period of sixty days and final orders should be passed within a period of another thirty days. The applicant's grievance is that the above direction was

violated and the respondents in their order dated 5.3.1999 (Annexure-7) withdrew the chargesheet issued in memo dated 12.10.1998 (Annexure-5) and issued a fresh chargesheet. The applicant has pointed out that framing of fresh charge is barred by time. The applicant represented to the respondents at Annexure-8 seeking clarification. In reply the respondents pointed out in their letter dated 26.3.1999 at Annexure-9 that issue of fresh/amended chargesheet in substitution of the earlier chargesheet which has been withdrawn, is permissible under the law. He was also asked in this letter to submit his explanation. The applicant wrote a further letter at Annexure-10 seeking further clarification. The applicant has stated that in the meantime the order of suspension was revoked in letter dated 7.4.1999. In the revocation order at Annexure-11 certain conditions were imposed which are severe and humiliating and which affect his fundamental rights. In the context of the above he has come up in this petition with the prayers referred to earlier.

J Jm

3. The respondents in their counter have stated that the petition is not maintainable because the substituted chargesheet was before the Tribunal in MA No.271 of 1999, arising out of OA No.666/98 and the Tribunal had ordered on the MA on 7.5.1999 to complete the enquiry within sixty days from the date of receipt of the order. This order dated 5.7.1999 is at Annexure-R/1. The respondents have stated that as the Tribunal have already passed orders to complete the enquiry on the basis of this chargesheet, the present prayers are not maintainable. It is also submitted by them that many of the allegations in the present

petition have been mentioned by the petitioner in OA No.666/98 which was disposed of in order dated 18.3.1999 and the same cannot be reagitated. On the question of issuing of chargesheet it has been stated that while OA No.666/98 was pending the chargesheet was reviewed and certain omissions in the chargesheet were noticed and therefore it was felt necessary to withdraw the same and issue a revised chargesheet which was issued on 5.3.1999 during the pendency of the earlier OA No.666/98, which was disposed of on 18.3.1999. On the above grounds, the respondents have opposed the prayers of the applicant.

4. In the rejoinder the applicant has relied on the circular dated 5.7.1999 of the Director General, P&T, which states that unless reasons for cancellation of original chargesheet are mentioned, fresh chargesheet on the same matter cannot be issued. It is also stated that by withdrawal of the first chargesheet the applicant stands exonerated of the charge and therefore the same charge cannot be once again levelled against him. On the above grounds the applicant has reiterated his prayers in the OA.

J.Jm.  
5. We have heard Shri G.K.Mishra, the learned counsel for the petitioner and Shri B.K.Nayak, the learned Additional Standing Counsel for the respondents and have also perused the records.

6. Before considering the submissions made by the learned counsel for the petitioner it has to be noted that in support of his contention the learned counsel for the petitioner has relied on the decision of Ahmedabad Bench of the Tribunal in the case of R.B.Parmar v. Union of India and others, 1987(2) AISLJ (CAT) 46. It is not necessary to refer to the facts of

that case. It is only to be noted that R.B.Puram's case (*supra*) related to an employee of Telecom Department and relying on the Director General, P&T's circular dated 5.7.1979 the Tribunal took the view that once chargesheet has been cancelled without giving any reason and without prejudice to the rights to issue a fresh chargesheet, no new chargesheet can be issued on the same grounds because it is violative of the above circular. In the instant case the Director General, P&T's circular is not applicable and there is no general proposition of law that the disciplinary authority is debarred from withdrawing chargesheet and issuing fresh chargesheet by way of substitution. Before considering the matter further it is necessary to refer to the original charge and the substituted charge. The original charge contains one article and relates to conducting of unauthorised meetings and unlawful activities inside the office premises under the banner of an unrecognised union. It is stated that such meetings were held on 2.7.1998, 15.7.1998 and 16.7.1998. In the substituted chargesheet also there is one article of charge and the gravamen of the charge is, holding of unauthorised meetings in the office premises and the matters connected thereto. The only substantial difference is that whereas in the first charge the meetings held on 2.7.1998, 15.7.1998 and 16.7.1998 are the subject-matters of the charge, in the substituted charge besides the meetings held on the above three dates, the meeting held on another date, i.e., 22.7.1998 has also been mentioned and another aspect has been covered in the new charge that while corresponding with

J Jm.

departmental authorities, the applicant used arrogant, discourteous and insubordinate language. Thus it is clear that both the chargesheets are substantially the same. Apart from the circular of the Director General, P&T, which is not applicable to the case of the applicant, the learned counsel for the petitioner has not shown us any other rule on the basis of which it can be argued that chargesheet once issued cannot be withdrawn or substituted by fresh set of charges with modification. This being the main contention of the learned counsel for the petitioner for quashing the chargesheet at Annexure-7, we hold that the prayer for quashing the chargesheet at Annexure-7 is without any merit.

7. The second contention of the learned counsel for the petitioner is that in their order dated 18.3.1999 in OA No.666/98 the Tribunal had set out a time frame for completion of the enquiry and passing of final order. That period having expired, fresh chargesheet cannot be issued. This contention is also without any merit because the respondents came up before the Tribunal in OA No.666/98 and mentioned about substitution of the charge by filing a Misc.Application and asking for further extension of time and orders on the MA were passed on contest. This contention is therefore held to be without any merit and is rejected.

*SJM*

8. As regards the third prayer that the conditions mentioned in the order at Annexure-11 revoking the suspension of the applicant are humiliating and too severe, we find that the conditions are reasonable. For example, these conditions lay down

that the applicant should not organise, take up, take part or attend 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. This is a very reasonable requirement and we find nothing severe or humiliating in this. The other four conditions require the applicant not to act in a manner which will cause disturbances in the peace and tranquility in the working atmosphere of the office, not to 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 and insubordinate in relation to his official dealings. All Government servants are required to abide by these conditions and therefore these also cannot be considered humiliating or severe. The last condition is that the applicant should not put forth or pursue any matter with the administration excepting his personal service grievances. This condition also cannot be termed as humiliating. In view of this, the prayer for quashing the conditions in Annexure-II is held to be without any merit.

9. In consideration of all the above, we hold that the Application is without any merit and the same is rejected. No costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

September 26, 2000/AN/PS

Somnath Som  
(SOMNATH SOM)

VICE-CHAIRMAN

26.9.2000