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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 215 OF 1999
Cuttack this the 29th day of September, 1999

Dr.S.K.Rahamatulla

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whehter 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*,

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
29.9.99

G. NARASIMHAM
MEMBER (JUDICIAL)

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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO.215 OF 1999
Cuttack this the 29th day of September, 1999

CORAM:

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

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Dr.S.K.Rahamatulla
aged about 43 years,
S/o. S.K.Hamir, at present
A.D.M.O., South Eastern Railway
At/Po: Khurda Road,
Dist: Khurda

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Applicant

By the Advocates : Mr.D.R.Patnaik

-Versus-

1. Union of India represented by
its General Manager, South Eastern
Railway, Garden Reach,
Calcutta
2. General Manager
South Eastern Railway
Garden Reach, Calcutta
3. Divisional Railway Manager(P),
S.E.Railway, Khurda Road,
At/Po/Dist: Khurda

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Respondents

By the Advocates : M/s.S.Roy
A.A.Khan

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ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL):

Applicant,

Dr.S.K.Rahamatulla, serving as A.D.M.O. under S.E.Railway files this application for quashing the departmental charges framed in Memo dated 21.12.1992(Annexure-1) against him and to quash the entire proceeding and also to direct respondents to give him promotion as and when due.

Interim prayer for staying the disciplinary proceeding was disallowed.

2. There is allegation that the applicant, while functioning as A.D.M.O. in Railway Hospital Dangaposi Health Centre committed gross misconduct by demanding and accepting illegal gratification of Rs.20 and Rs.30 on two different dates in August and September, 1990 for issuing sick and fit certificates to one Bijaya Kumar Sao. There was some C.B.I. enquiry and ultimately this charge memo was issued.

3. The case of the applicant is that there is needless delay in finalizing the proceeding and the representation to drop the proceeding went unheeded. Enquiry is still pending without any lapse from his side. He refers to the Apex Court decision in State of Andhra Pradesh vs. N. Radhakishan disposed of on 7.4.1998 that in case of unexplained delay to the prejudice of the delinquent in finalizing the disciplinary proceeding, the same needs to be quashed.

4. In the counter the Department took the stand that the applicant though had been supplied with documents as requested in his representations dated 28.1.1993 and 18.3.1993, he called for additional

documents on 17.4.1994 without submitting the statement of defence. In the process there was delay in appointment of Inquiring Officer. The Inquiring Officer and the Presenting Officer were appointed in letter dated 10.10.1994. As the Presenting Officer was changed, another officer has been appointed as Presenting Officer in letter dated 18.11.1995. However, there has been no progress in the enquiry on various dates due to non-availability of the Presenting Officer till 13.2.1997 when the Inquiring Officer submitted exparte report in the absence of the Presenting Officer. However, the Railway Board had not accepted this report and remitted the matter for further enquiry, because of procedural infirmities. Thereafter there has been progress of enquiry on several dates upto 28.5.1999. The applicant is given being /reasonable opportunity to defend himself in the process of enquiry. Yet in order to avoid the enquiry, it is stated by the respondents that the applicant has needlessly moved this Tribunal for quashing the charges in memo dated 21.12.1992 under Annexure-1. In this way the respondents opposed the prayer of the applicant.

5. We have heard Shri D.R.Patnaik, learned counsel for the applicant and Shri S.Roy, learned Addl. Standing Counsel appearing for the respondents. Also perused the records.

It is not the dictum of the Hon'ble Apex Court as cited by the applicant in the case of N.Radhakishan reported in 1998(3) All India Services Law Journal 162 that in all cases where proceeding is delayed ²¹ has to be quashed. On the other hand it has been held that mere delay may not be the cause for the Court to step in and

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it has to consider various aspects / weigh and balance. The delinquent employee has a right that disciplinary proceeding against him is concluded expeditiously and he is not made to undergo mental agony and also monetary loss when it is unnecessarily prolonged without any fault on his part in delaying the proceeding. Yet the Court has to consider the nature of charge and complexity, on what account the delay occurred. In this case decided by the Hon'ble Apex Court charge sheet filed in the year 1987 in respect of certain misconduct of the year 1978 was not finalized even in the year 1996. Under such circumstance, the proceeding was quashed.

In the case before us, we do not see such an abnormal delay. Still we consider the delay in finalizing the proceeding is by no means normal, though at initial stage delay had occurred on account of the conduct of the applicant.

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During hearing, as / evident from the order-sheet dated 14.5.1999 from the side of the applicant it was submitted that a direction can be given to respondents to complete the enquiry within a specified period of time.

In this view of the matter, while rejecting the prayer for quashing the charges framed under Annexure-1, we direct the respondents to finalize the proceeding within a period of 120(One Hundred and Twenty) days from the date of receipt of copies of this order, even if the applicant does not cooperate.

With the above observation and direction this

Original Application is disposed of, but without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

29.9.99

G. Narasimham
(G. NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO