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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH:CUTTACK.

ORIGINAL APPLICATION NO.393 OF 1999.
Cuttack, this the 23rd day of August, 2000.

Gokul Das.

....

Applicant.

-Versus-

Union of India & Ors.

....

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.

L.
(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
23.8.2000

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 393 OF 1999.
Cuttack, this the 23rd day of August, 2000.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
AND
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

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Gokul Das, Aged about 52 years,
Son of Sohar Das, resident of
Village-Kukrimud, Lakan, Po/Ps.: Lakan,
Dist. Nuapada.

...

Applicant.

By legal practitioner: M/s. B. K. Panda, S. J. Rao, G. Nain, Advocates.

-Vrs.-

1. Union of India, represented through
its General Manager, SE Railway,
At-Garden Reach, Calcutta.

2. Divisional Railway Manager,
Sambalpur Division,
At/Po/Dist. Sambalpur.

3. Assistant Engineer,
South Eastern Railway,
At/Po: Kantabanji, Dist. Bolangir. ...

Respondents.

By legal practitioner: Mr. R. C. Rath, Additional Standing Counsel.

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ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN:

S. Som
In this Original Application, the applicant has
prayed for quashing his order of removal dated 17.6.1997 at
Annexure-3.

2. Applicant's case is that while he was working as
Gangman from 27.5.1971, he suffered from serious disease i.e.
T.B. and was forced to take rest from 8.4.1996. He remained on
leave for one year and according to him, intimated the PWI,
Kantabanji under whom he was working. On 11.5.1997 he tried to
join his duty after getting fitness certificate from the Doctor.
At that time, he came to know that an enquiry has been completed

against him for his unauthorised absence. Applicant has stated that the enquiry has been concluded behind his back and no document has been given to him and no opportunity has also been afforded to him and an order of removal from service has been passed. In view of this, he has become up in this Original Application with the prayer referred to above.

3. Respondents have filed counter opposing the prayer of applicant. It is not necessary to refer to the averments made by the Respondents in their counter because these will be referred to at the time of considering the submissions made by learned counsel for both sides in the O.A. as also in the counter and in course of their submissions.

3. The first point of the applicant is that the enquiry was conducted behind his back and no opportunity was given to him. Respondents have pointed out that the applicant remained ^{on} unauthorised absence from 8.4.1996 without any intimation. He was issued with chargesheet on 28.3.1997 and this was sent to him by Regd. post in his home address and the applicant acknowledged the same. In view of this, the contention of the applicant that the enquiry was initiated without any intimation to him must be held to be without any merit. It is further submitted by Respondents that the applicant did not furnish any show cause notice nor did he ask for any documents. These averments of the Respondents have not been denied by the applicant by filing any rejoinder even though a copy of the counter has been served on 28.3.2000. It is submitted that the enquiry was conducted behind his back. Respondents have stated

S. V. J. M.

in their counter that the applicant personally attended the enquiry on 20.4.1997. Therefore, the contention that the applicant had no knowledge of the enquiry was also held to be without any merit. Respondents have stated that the copy of the enquiry was also given to him. ~~But he~~ did not file any representation. Respondents in their counter have stated that from 4.11.1971 till 17.11.1995 on 15 occasions, applicant had remained absent unauthorisedly ranging from 10 days to 98 days. ~~been~~ From this, it is clear that the applicant had not been attending his duty regularly. Under the circumstances, we hold that the contention of the applicant that the enquiry has been held behind his back is without any merit and the same is rejected.

5. In view of the above, we hold that the applicant is not entitled to any of the reliefs claimed by him, in this Original Application which is accordingly rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
23.8.2000

KNM/CM.