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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 426 OF 1999.
Cuttack, this the 30th day of June, 2000.

GANESWAR DALAI.

...

APPLICANT

VRS.

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

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

5.6.2000

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 426 OF 1999.
Cuttack, this the 30th of June, 2000.

CORAM:

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

..

GANESWAR DALAI,
Aged about 25 years,
S/o. Bhateswar Dalai,
At-Athagarh, Dist. Cuttack.

....

Applicant.

By legal practitioner: M/s. V. Narasingh, L. Samantray, P.K. Dash,
Advocates.

-Versus-

1. Union of India represented through its
Secretary, Department of Revenue,
New Delhi-1.
2. Commissioner of Income Tax, Orissa, 15 Udyan Marg,
Bhubaneswar, Dist: Khurda.

... Respondents.

By legal practitioner: Mr. A.K. Bose, Senior Standing Counsel
(Central).

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

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In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the order dated 8.1.1998, at Annexure- 6 dispensing with his service and has also asked for consequential benefits. Departmental Respondents have filed counter opposing the prayer of applicant. When the matter was called today, Mr. Narasingham, learned counsel for the applicant and his associates were absent. No request has also been made on their behalf seeking adjournment. As in this matter pleadings have been completed long ago, it was not possible to drag on the matter indefinitely. We have, therefore, heard Mr. A.K. Bose, learned Senior Standing Counsel appearing for the Respondents and have also perused the records.

2. For the purpose of considering this petition, it is not necessary to go into too many facts of this case. The admitted position is that the applicant was engaged as a casual worker under the Respondent No.2 and was conferred temporary status in due course. In course of his engagement, lapses in his official conduct were noticed ^{that} /at frequent intervals he remained absent without intimation. He had absented with office vehicle for the entire day and night on one occasion and for this the Departmental Authorities issued several warnings to him. But there was no improvement in his conduct and behaviour inspite of written and verbal warnings. The Departmental Authorities, have, therefore, decided to dispense with his service by giving him one month's notice in letter dated 10.4.1996. Thereafter, applicant in his letter dated 23.4.1996, at Annexure-2 admitted his lapse and begged apology and submitted that he would not indulge in such conduct in future but again he indulged in such indisciplined conduct and from the letter at Annexure-4 it appears that on 31.12.1996, he absented with the office jeep for the entire period of that day and night. In letter dated 3.2.1997, at Annexure-5, his explanation was called. Respondents have stated that he did not submit any explanation. Again in letter dated 5.5.97, his explanation was called for through Regd. Post. Again another notice was given to him on 25.8.1997 and this letter was served on the applicant but he did not respond. In the context of the above facts, the Departmental Authorities issued order dispensing with his service. The petitioner in the Original Application has challenged the order on the ground that the order is of arbitrary and mala fide and has been passed due to nonapplication of mind. He has also stated that any order which casts a stigma on a person can only be passed after giving him

due opportunity to show cause. On the above grounds, the applicant has come up on the prayer for quashing the order at Annexure-6. Both the grounds taken by the applicant are not sustainable ; firstly because in this case notice was given to him repeatedly with regard to his unsatisfactory work. On an earlier occasion he had also admitted his fault and has given an undertaking to improve his conduct but no such improvement was noticed. Before passing the impugned order a notice was sent to him and the notice was received by him as mentioned in the order itself but the applicant did not response. It, can not , therefore, be said that he was not given any opportunity to show cause against the order of disengagement. Applicant is a casual worker with temporary status. He has not been regularly absorbed in the Govt. service and therefore, CCA Rules is not applicable to him and no regular proceedings under the CCA Rules, could have been initiated against him. As his work was found unsatisfactory, He was asked to show cause and thereafter, the impugned order has been passed. This order can not be said to have been passed due to nonapplication of mind. Considering the repeated misconduct of the applicant including the absconding with the office vehicle which is a valuable property, the order of disengagement of the applicant can not be said to be arbitrary.

3. In the result, we do not find any merit in this original Application which is accordingly rejected.

No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.