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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 111 OF 1999  
Cuttack this the 26th day of June, 2000

Dillip Kumar Mohapatra

...

Applicant(s)

-VERSUS-

Union of India & Others

...

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? 77
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

*Somnath Soni*  
(SOMNATH SONI)  
VICE-CHAIRMAN  
*26.6.2000*

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

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH CUTTACK

ORIGINAL APPLICATION NO.111 OF 1999  
Cuttack this the 26th day of June, 2000

CORAM:

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

Shri Dillip Kumar Mohapatra,  
aged about 43 years,  
Son of Kailash Chandra Mohapatra  
Vill/PO: Kalabuda, Via: Garadapur  
Dist - Kendrapara,

At present - Postal Assistant  
Bhubaneswar G.P.O.

...

Applicant

By the Advocates

Mr. G.K.Mishra

-VERSUS-

1. Union of India represented through  
Director General of Posts  
Dak Bhawan, New Delhi
2. Senior Superintendent of Post Offices,  
Bhubaneswar

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Respondents

By the Advocates

Mr. B. Dash  
Addl.Standing Counsel  
(Central)

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O R D E R

MR.G.NARSIMHAM, MEMBER (JUDICIAL): Applicant, a Postal Assistant and under suspension from 10.3.1994 onwards has been dismissed from service under Rule -19 of CCS(CCA) Rules in view of his conviction under Section 420 I.P.C. leading to sentence of R/I. for one and half year, and fine of Rs.3000/- through judgment dated 9.5.1997 in S.P.E. Case No. 3/90 passed by the learned Trial Court. The order of dismissal was passed on 3.7.1997 vide Annexure-2 x and was served on the applicant on 1.4.1998. This application has been filed with a prayer for quashing the order of dismissal and for reinstatement in service with all consequential service and financial benefits mainly on the grounds that his conviction has been set aside by the learned Special Judge-cum-Additional Sessions Judge, Bhubaneswar in Criminal Appeal No.915/98 vide judgment dated 8.2.1999 under Annexure-3.

2. In the counter filed by the respondents these facts have not been disputed.

3. We have heard Shri G.K.Mishra, learned counsel for the applicant and Shri B.Dash, learned Addl.Standing Counsel appearing for the respondents. Also perused the records.

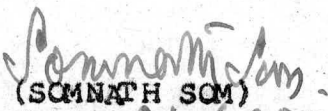
Shri Mishra during hearing confined this case with regard to prayer for reinstatement only with consequential benefits and did not press the other reliefs. In fact we find no other relief has been preferred in the Original Application.

4. The learned Appellate Court did not acquit the applicant of the charge under 420 I.P.C. <sup>Because</sup> Because the applicant could not get reasonable opportunity during trial to cross-examine five prosecution witnesses. The order of conviction and sentence of the learned Trial Court was set aside and the

case was remanded to the learned Trial Court for disposal according to law on merit. In other words the conviction order of the learned Trial Court was set aside on a technical point and the criminal case instituted against the applicant is still subjudice.

5. Be that as it may, conviction of the applicant having been set aside, the applicant having been dismissed from service because of his conviction, the order of dismissal cannot be allowed to stand. We, therefore, quash the order of dismissal passed under Annexure-2 and direct the respondents to reinstate the applicant in service forthwith and treat him as though he was not dismissed from service. We make it clear through this order that we are not passing any order revoking the suspension of the applicant. The applicant shall be paid subsistence allowance as per rules with effect from 1.4.1998.

6. The application is accordingly allowed, but without any order as to costs.

  
(SOMNATH SOM)  
VICE-CHAIRMAN

26.6.2008  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

B.K.SAHOO//