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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 01 OF 2000
Cuttack this the 27th day of September/2000

Babaji Charan Parida ... Applicant(s)

-VERSUS-

Union of India & Others ... Respondent(s)

(FOR INSTRUCTIONS)

1. Whether 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.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN NO

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 01 OF 2000
Cuttack this the 27th day of September/2000

CORAM:

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

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Babaji Charan Parida
aged about 34 years
Son of Bairagi Charan Parida
At/PO: Akhua Dakhini, Via-Patkura
District - Kendrapara

...

Applicant

By the Advocates

Mr. A. Deo

-VERSUS-

1. Union of India represented by it's Secretary, Department of Posts, Dak Bhawan, New Delhi
2. Chief Pest Master General Orissa Circle, At/PO : Bhubaneswar District - Khurda
3. Superintendent of Post Offices, Cuttack North Division, Cuttack Town/District - Cuttack
4. Sub-Divisional Inspector (Postal) Kendrapara Sub-Division, District - Kendrapara

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Respondents

By the Advocates

Mr. S.B. Jena
Addl. Standing Counsel
(Central)

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN: In this Application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner has (Annexure-1) prayed for quashing the orders dated 26.7.1991/placing him under put off duty, order dated 5.8.1991(Annexure-2) ratifying the put off duty order, Memo dated 5.7.1999(Annexure-3) issuing charge sheet, orders dated 16.7.1999(Annexures-4 & 5) appointing Inquiring Officer and Presenting Officer to inquire into the charges. The second prayer is for direction to respondents to reinstate the applicant to the post of Extra Departmental Branch

Post Master, Akhua Dakhini Branch Office. Respondents have filed their show cause and counter opposing the prayers of the applicant. Applicant has also filed rejoinder. For the purpose of considering this Application it is not necessary to go into too many facts of this case.

2. Heard the learned counsel for the petitioner and Shri S.B.Jena, learned Addl. Standing Counsel appearing for the Respondents and also perused the records.

3. The undisputed facts of this case are that the applicant was working as E.D.B.P.M., Akhua Dakhini Branch Office from 1986. During annual inspection of the office on 19.7.1991 some instances of alleged fraud and misappropriation came to the notice of the departmental authorities and in order dated 26.7.1991 the applicant was put under off duty. The charge sheet was issued only on 5.7.1999, i.e. after a passage of eight years. The applicant has prayed for quashing the disciplinary proceedings and his consequent reinstatement solely on the ground of delay.

4. Before considering the submissions made by the learned counsel for both sides, it is necessary to note that in the departmental proceedings the charges against the petitioner are that he had misappropriated Rs.500/- received from one depositor. The other charge is that he had misappropriated Rs.200/- accepted from another depositor and the third charge is similar to above charges in which he accepted Rs.1000/- from a third depositor. With regard to delay in initiation of departmental proceedings it has been submitted by the learned Addl. Standing Counsel that after discovery of the alleged misappropriation of the previous accounts, office had to check

up and this is

up the previous accounts of this office during incumbency of the the applicant and this resulted in discovery of a total misappropriation of Rs.14,650/- and only after this was done the charges could be be issued and in the process there was delay in issuing the charge sheet. We are not inclined to accept this contention of the learned Addl. Standing Counsel, because in Para-3(i) and Para-5 of the counter it has been clearly mentioned by the respondents themselves that at the time of annual inspection it was detected that the applicant had misappropriated a total amount of Rs.14,650/- and thereafter he was placed under put off duty in July/91. When the applicant was put off duty after the total allegedly misappropriation amount of Rs.14,650/- was brought to light, we find no reason as to why Respondents took another eight years in issuing the charge sheet. It has been submitted by the learned counsel for the petitioner and this has not been denied by the learned Addl. Standing Counsel that even though the departmental instructions provide that disciplinary proceedings against the E.D. Agent should be completed within a period of 45 days and in case where an E.D. Agent is kept under put off duty in every six months his case has to be reviewed, in the instant case no such review has been made. The third point to be noted is that when the applicant was put under off duty in July/91. As per prevalent rules no payment during the period of put off duty was payable. It is only when the rules were amended on 13.1.1997, in pursuance of the direction of the Hon'ble Supreme Court, exgratia payment by way of compensation became payable. It is submitted by the learned counsel for the petitioner that accordingly after coming into force of the amended rules, the applicant is in receipt of such exgratia payment by way of compensation. Learned counsel for the petitioner submitted that on the ground of delay the departmental proceedings

should be quashed. In support of his contention he has relied on a decision of this Bench in Original Application No.450/95 disposed of in order dated 20.11.1998. He has also relied on a decision of Ahmedbad Bench of the Tribunal in O.A.518/93 in the case of S.M.Dube v. Union of India reported at Page-332 of Swamy's Case Law Digest. In this decision several earlier decisions of the Hon'ble Supreme Court on that point has been dealt. It is not necessary to refer to facts of those two cases, because law is well settled that departmental proceedings initiated against an employee should be concluded expeditiously more so, when the concerned employee is under put off duty. It is also well settled principle that in case of unreasonable and unexplained delay in issuing charge sheet when the employee concerned has been put off duty, the charge sheet is liable to be quashed. But in this case we are not inclined to quash the charge sheet, because we find that the applicant was holding a position of trust as E.D.B.P.M. where he was authorised by virtue of his assignment to receive public money and even though the charges have been issued eight years after the applicant was placed under put off duty, in view of the gravity of the charges we are not inclined to quash the same. We, however, direct that the departmental authorities should conclude the departmental proceedings as early as possible. On the question of continued put off duty of the applicant for well over nine years, we feel that the put off duty order cannot be allowed to continue indefinitely. We, therefore, direct the departmental authorities to revoke the order of put off duty forthwith and reinstate the applicant to his previous post. The prayer of the applicant for quashing the charge sheets and the order



JFM.

of put off duty is rejected.

With the above observation and direction Original Application is disposed of, but without any order as to costs.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
20/1/2003

B.K.SAHOO//

