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NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Rejoined not yet  
ad5 to 15.11.2000

For civil

14.11.2000

Recd

Dt. 15.11.2000

The learned  
counsel for the applicant  
prays for time to file  
rejoinder. Prayer allowed.  
Time granted till 27.11.2000  
as last chance for rejoinder.

REGISTRAR

Rejoinder not  
filed

Regist

27-11-2000

Parties are absent  
on call. No steps taken  
to file rejoinder. Therefore  
pleadings deemed  
complete. Put up  
to Bench for order.

REGISTRAR

Ref. Laxman Court's  
order dt. 27.11.2000

pleadings deemed  
completed.

For orders  
Bench

Order dated 6.8.2001

Heard Shri S. Jethi, Jr. Counsel  
for the petitioner and Shri S. Behera, A.S.C.  
for the respondents in part. Shri Jethi  
submits that as this is a bulky  
record, he has not been able to  
prepare himself thoroughly and therefore,  
wants the matter to be posted to  
13.8.2001, as a part heard matter to  
enable him to make further  
submission. It is so ordered. But  
no further time shall be granted.

Vice-Chancellor  
Member(s)

Order dated 13.8.2001

Heard Shri B.N. Rath, learned counsel for  
the petitioner, assisted by Shri J.N. Rath and  
Shri S. Behera, learned A.S.C. for the respondents  
and also perused the records.

In this O.A. the petitioner has prayed for  
quashing the order dated 7.2.2000 (Annexure-7) and  
for direction to respondents to reinstate the  
applicant in service. Respondents have filed their  
counter opposing the prayer of the applicant. No  
rejoinder has been filed.

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 <sup>while</sup> the petitioner  
<sup>was</sup> working as EDBPM, Badaneuli B.O., Keonjhar  
a departmental proceedings was initiated against  
him and in order dated 27.5.1988 (Annexure-1) he was  
removed from service. His case is that on the same  
grounds criminal cases were started against him and  
in the three criminal appeals, orders of which have  
been ~~issued~~ annexed by the petitioner, he was  
acquitted of the criminal charges. Thereupon the  
petitioner filed representation for taking him

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Rejoinder not filed.

D  
7/3/01

Bench

Rejoinder not filed.

D  
4/4/01

Bench

Rejoinder not filed

Bench

M  
1/5/2001

For Admission

D  
25/6/01

Bench

For Admission

D  
2/8/01

Bench

For Admission

D  
3/8/01

Bench

For Admission

as a

Part-heard matter

D  
10/8/01

Bench

back in service, but in order dated 7.2.2000 vide Annexure-7, this was rejected stating therein that as consequent upon the departmental enquiry he had been removed from service, basing on the judgments of the Appellate Court his case for reinstatement <sup>in service</sup> is permissible. The sole point urged by the learned counsel is that lapses for which the applicant was proceeded against departmentally, and was dismissed from services were also under consideration in the criminal cases and the learned Appellate Court in their three orders have acquitted the applicant of the charges involving the same lapses which were alleged against him in the departmental proceedings. We have gone through the charges and the three orders of the learned Appellate Court and we find that the above submissions is not factually correct.

The first charge against the applicant in the departmental proceedings is that he accepted a sum of Rs.156/- from one Saradamani Nayak on 20.12.1984 for depositing the said amount in SB Account No.295454 but he deposited only Rs.56/- and misappropriated Rs.100/-. On a reference to the three judgments of the Criminal Court which are at Annexures-2, 3 and 4 to the O.A., we find that the alleged lapse with regard to S.B.Account of Saradamani Nayak was not the subject matter of the criminal proceedings.

The second charge against the applicant in the disciplinary proceedings was that he accepted Rs.700/- and Rs.600/- on 6.6.1985 and 10.6.1985, respectively from the depositor one Umakanta Nayak for being deposited in S.C.Account No.294745, but he did not credit the amount in the said account and misappropriated the same. On a reference to criminal appeal No.9/91 at Annexure-3, we find that though the alleged misconduct with regard to S.B.Account of U.K.Nayak was the subject matter of this criminal case, but the nature of lapse as alleged in the disciplinary proceedings was different from the criminal case. In the criminal ~~case~~ case the charge against him was that applicant had withdrawn certain

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## ORDERS OF THE TRIBUNAL

amounts from the Savings Bank Account of Shri Umakanta Nayak by forging his signature and falsifying the account. Therefore, the charge in the criminal case with regard to Savings Bank Account of Umakanta Nayak is not related to non depositing the amount and misappropriation, but for withdrawing the amounts from the Savings Bank Account of Shri U.K. Nayak by forging his signature and misappropriation. Therefore, this judgment at Annexure-3 does not relate to the Article of charge No. II in the disciplinary proceedings.

The 3rd charge in the disciplinary proceedings is that the applicant accepted an amount of Rs. 1000/- from the depositor one Daitary Mohanta on 29.8.1982 for being deposited in his A.B. Account No. 294726, but he took into P.O. account only Rs. 600/- and overwrote the balance in the passbook of Rs. 605/- and the balance Rs. 400/- was misappropriated by him. Again he allowed withdrawal of amount Rs. 690/- in total on six different dates, but instead of payment the amounts to the depositor, he misappropriated the amounts. The charge against the applicant in the criminal appeal No. 10/91 (Annexure-4) relates to the savings bank account of Daitary Mohanta, and the criminal charge is that on the plea of verification of the passbook he took the passbook from the depositor and withdrew certain amount from the Account by forging the signature of Shri Daitary Mohanta. Thus the criminal charge is also different from the charge in the disciplinary proceedings.

From the above it is clear that the charges in the criminal case of which the applicant has been acquitted are different from the charges levelled against him in the disciplinary proceedings in pursuance of which he has been removed from service. Moreover, the applicant was removed from service in order dated 27.5.1988. He has made no averment that he had filed any appeal. He has approached the Tribunal after a lapse of 12 years. In view of this we hold that the O.A. is not maintainable being barred by limitation.

*S. J. Som*

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CA 314/2000

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Records received  
on 7-9-2001

Free copies of  
final orders  
dt. 13.8.2001 issued  
to counsel for both  
sides.

15/9/01

S.O.C.D.

The O.A. is accordingly rejected, but  
without any order as to costs.

MEMBER (JUDICIAL)

*Domnathim*  
VICE-CHAIRMAN  
13.8.2001