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04 94/2000

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NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Copy of 2 copies
not sent,

For and

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5.11.20

Bench

Rejoinder not filed.

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15/12

Bench

Rejoinder not filed.

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23.1.01

Bench

Rejoinder of 2002

Bench

Rejoinder not filed.

~~Rejoinder not filed.~~

~~No receipt filed~~

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4.4.01

Bench

Rejoinder not filed.

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8/5/01

Bench

J. S. M.

10. 28. 6. 01

Division Bench order. Posted to
9/8/2001 for admission and final disposal.

J. S. M.
Vice-Chairman
28/6.

11. ORDER DATED 9.8.2001.

Heard Shri S. R. Patnaik, learned counsel for the Applicant and Shri B. Dash, learned Additional Standing Counsel appearing for the Respondents and have also perused the records.

In this Original Application the applicant has prayed for a direction to the Respondents to communicate the result of the disciplinary proceedings and also to direct the Respondents to pay him the subsistence Allowance. The case of the applicant is that he was selected for the post of Time Scale clerk and joined as Postal Assistant on 10.12.1980. Applicant has further stated that one Manorama Mohanty, falsely styling herself as the wife of applicant filed petition against the applicant before the Departmental Authorities and on the basis of certain other allegations he was placed under suspension in order dated 6.5.1982 and disciplinary proceedings were initiated against him. The applicant filed his written statement of defence. Inquiring Officer intimated to him that preliminary enquiry will be held on 3.11.1982. Applicant has stated that enquiry was concluded on 13.7.1983 as it appears from the copy of the order issued by the T.O. at Annexure-16. Applicant has stated that thereafter he was

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NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

for admission
and hearing.

Bench

MS
22/6/01

for Admission

MS
8/8/01

Bench

not informed anything about the final result of the proceedings and that is why he has come up in this petition with the prayers for a direction to the Respondents to intimate the result of the proceedings to him and also to pay him the subsistence allowance on the presumption that he had been placed under suspension and no final order in the proceedings have been passed or intimated to him. He must have deemed to be continuing under suspension.

Respondents in their counter have stated that for the purpose of securing employment as time scale clerk, applicant has furnished false marks in the HSC examination in his application. The conduct certificate submitted by him also a false document. Because of this he was placed under suspension and enquiry was conducted in course of which all facilities were given to the applicant and his defence counsel for perusal of the documents. Applicant did not participate in the enquiry. Ultimately the enquiry was concluded on 13.7.1983 on which day the defence counsel of the applicant attended the enquiry. The I.O. held that the two charges against the applicant have been proved and accepting the report of the I.O. the disciplinary Authority through a speaking order dated 24.8.1983 (Annexure-R/1) dismissed the applicant from service. Respondents have stated that a copy of the punishment order dated 24.8.1983 was sent to the Postmaster, Jajpur Head Post Office where the applicant was working prior to his suspension with a direction that the same should be served on the applicant and the

[Signature]

acknowledgement due receipt duly attested should be sent to the Office of the supdt. of Post Offices, Cuttack North Division i.e. the Disciplinary Authority. Respondents have stated that as this is a matter of 1983 it has not been possible for them to locate the receipt of applicant acknowledging receipt of the punishment order. They have further stated that the punishment order was delivered to the applicant through the Postmaster, Jajpur Head post Office. This averment has not been denied by applicant by filing any rejoinder. Respondents have further stated that on a verification of the punishment register that order of punishment could be located and has been filed. Respondents have stated that as the applicant has been dismissed from service on 24.8.1983 and he has approached the Tribunal in 2000 the application is hopelessly barred by limitation. Going by the averments made by the applicant himself admittedly he was placed under suspension in order dated 6.5.1982. Applicant has not made any averment that during his period of suspension he was not in receipt of any Subsistence Allowance. If he was in receipt of Subsistence Allowance, then the same must have been stopped with the issue of the order of punishment dismissing him from service. Applicant was kept silent all these years from 1983 and has approached the Tribunal only in 2000. In view of this we hold that the application is hopelessly barred by limitation. We also hold that the explanation given by the respondents about nonavailability of the receipt of the punishment order is reasonable because this matter has come up

J. J. J.

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after passage of more than 17 years. In view of this,
the O.A. is dismissed on the ground of being barred by
limitation. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN
9.8.2001

KNM/CM.

Free copies of
final order
dt. 9.8.2001 issued
to counsel for
both sides.

Do
10/8/01

Prop
S.O (T)