

a

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O. A. NO. 33 OF 2001

P R E S E N T: The Hon'ble Mr. B. N. Som, Vice-Chairman
The Hon'ble M. R. Mohanty, Member (Judl.)

Karam Chand Mishra ... Applicant.

-Versus-

Union of India & Ors. ... Respondents.

For Applicant: Mr. I. C. Dash, Counsel.

For Respondents: Mr. Ashok Mohanty, Counsel.

....

DATE OF DECISION: 12.05.2004.

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL):-

By filing this Original Application under section 19 of the Administrative Tribunals Act, 1985, on 22-01-2001, the Applicant Karam Chand Mishra has prayed for the following reliefs:-

- "(a) to declare that the order under Annexure-4 is illegal, not sustainable in the eyes of law and unreasonable.

J
6

10
//2//

- (b) to declare that the proviso added under para-7 of Annexure-3 which is otherwise a follow-up action of the substantive order made in paragraph-5 to be illegal, unjust and unreasonable".

2. Short facts of this case are that while the Applicant was working as Vice-Principal of the Kendriya Vidyalaya No.1 at Bhubaneswar, was placed under suspension on 31.5.1990. On the basis of an allegation that he physically assaulted the Principal of the Vidyalaya in question, he was charge-sheeted on 08.08.1991. It was also alleged, in the charge-sheet dated 8.8.1991, that the Applicant was involved in leakage of economics question paper, for Class-XI, that was set by him. On being found guilty (through a regular process of enquiry done as per the Rules), the applicant was imposed with the punishment on 07.07.1994, of reduction to lower post (of Post Graduate Teacher) till he is found fit by the competent authority to be promoted/restored back to the higher post of Vice-Principal (with further condition that he will not regain his original seniority in the event of his promotion/restoration to the higher post of Vice-Principal) and, it was also directed that the period of his suspension will be treated as the leave of the kind due and admissible under the Rules. He unsuccessfully carried the matter on appeal, which was rejected on 02.05.1995.

//3//

3. Respondents, by filing counter, have opposed the case of the Applicant on the ground of limitation as also on merits.
4. We have heard learned counsel for both sides and perused the materials placed on record.
5. Law is well settled by now that the Courts and Tribunals have no power to marshal the evidences recorded during the enquiry; nor have the power to substitute its own findings in place of the findings given by the Inquiring Officer/Disciplinary Authority like an Appellate Authority. Interference is permissible only where natural justice has not been given to the delinquent (while proving the case on the charges) or Rules in the said regard have been violated. No where in this Original Application, the applicant has pointed out that any of the Rules have been infringed/violated during the enquiry or adequate opportunity was not provided to him to defend himself. The applicant has also neither produced the charge-sheet, enquiry report nor even the appeal preferred by him to show any irregularity. No prejudice has also been claimed to have been inflicted on the Applicant during the enquiry.
6. Apart from that, though the order of punishment was passed on 07.07.1994 and his appeal was rejected on 02.05.1995, he has preferred this O.A. only on 21.1.2001; which is grossly barred by limitation of five years. No

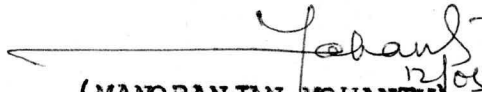
[Handwritten signature]

12
//4//

separate petition seeking condonation of delay has also been filed. Nothing has been averred in this Original Application explaining the delay in filing this case. It has only been stated in his Original Application that he had not received the order. Under the rules, in case no communication is received on the appeal, the Applicant was at liberty to approach the Tribunal after six months of filing the appeal. Having not done so, the Applicant cannot take any benefit, by merely stating that he had not received the rejection order.

7. In the above said premises, we find no merit in this Original Application (which is also grossly barred by limitation) and, hence, this case is dismissed. No costs.


(B. N. SOM)
VICE-CHAIRMAN


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

12/05/04