

4
O.A.No.177/2003

Order dt.08.08.2003

Applicant A.K.Sahoo (of Regional Institute of Education, Bhubaneswar) having not been allowed to have a defence assistant in a disciplinary proceeding that is pending against him, had filed this Original Application under Section-19 of the Administrative Tribunals Act, 1985.

2. Initially, the Applicant nominated one Shri Sankarsan Pradha, Asst. Audit Officer of the office of the Accountant General (Orissa), Bhubaneswar to assist him in the disciplinary proceeding in question; but he had to change him. The Enquiry Officer, by his order under Annexure-27 dt.26.11.2002, gave opportunity to the Applicant to nominate a fresh defence assistant (by 04.12.2002) and fixed the date of enquiry to 13.12.2002. However, on 06.01.2003, the Applicant nominated one Nilamadhab Behera of the office of the Accountant General to be his defence assistant; but the Enquiry officer turned down the said prayer; simply because the Applicant did not nominate the fresh defence assistant by 04.12.2002.

3. Having heard, Mr.P.V.Ramdas, learned senior counsel appearing for the Applicant and Mr. Anup Kumar Bose, learned Senior Standing Counsel for NCERT/Respondents (on whose behalf a counter has been filed) and on perusal of the materials placed on record, we pass the following orders; on the consent of the learned counsels appearing for both the parties:-

(a) Nilamadhab Behera, a clerk in the office of the Accountant General (AE), Orissa, Bhubaneswar shall act as defence assistant of the Applicant in the disciplinary proceedings pending against the Applicant.

(b) The next date of enquiry shall be taken up on 08.09.2003; when the Presenting Officer, the Applicant, Shri Ajoy Kr. Sahoo and his defence assistant (aforesaid Nilamadhab Behera) shall appear before the Enquiry Officer at 11.30 A.M.

7
2

- (c) Enquiry Officer, immediately on receipt of a copy of this order, shall issue notice of the enquiry (fixing the same at 11.30AM of 08.09.2003) to the Applicant, his aforesaid defence assistant (under intimation to the Accountant General (A&E), Orissa, Bhubaneswar) and to the Presenting Officer.
- (d) Enquiry Officer should give adequate time gap between two dates of enquiry and should always give notices to the Applicant and his defence assistant (under intimation to the Accountant General (A&E), Orissa, Bhubaneswar for all succeeding enquiry dates.
- (e) In the enquiry the Applicant should be given full opportunity to defend himself and the Applicant at the same time should give full cooperation in the enquiry.

4. With the aforesaid observations and directions, this Original Application is disposed-of; by leaving the parties to bear their own costs.

5. Send copies of this order to all the parties of this Original Application/Applicant and the Respondents.

6. Free copies of this order be given to the counsels for both the parties and also to Sri Nilamadhab Behera, clerk in the office of the Accountant General (A&E), Orissa, Bhubaneswar

7. A copy of this order be also sent to the Accountant General (A & E), Orissa, Bhubaneswar; who should spare the services of Nilamadhab Behera, a clerk in his office, on 08.09.2003 (and also on all subsequent dates of enquiry) to act as defence assistant of the present Applicant.

(M. R. Mohanty)
Member(J)

(B. N. Som)
Vice Chairman

As per order dt-8.8.03 the copy of order issued to both parties by posts, and Sri. N. Behera, Clerk of the AG (A&E) is The AG (A&E), Orissa, BBSR.

The same copy of order issued to the counsel for both side.
14/9/03
S.O. 14/9/03