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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 70 OF 2005
CUTTACK, THIS THE 05th DAY OF October, 2005

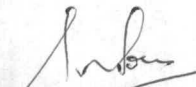
Adhir Kumar Das.....APPLICANT

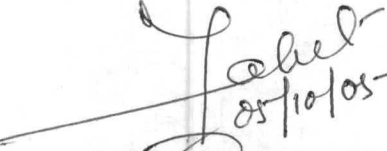
V S

Union of India & othersRESPONDENTS

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? *yes*


(B.N.SOM)
VICE-CHAIRMAN


(M.R. MOHANTY)
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 70 OF 2005
CUTTACK, THIS THE ⁰⁵ DAY OF October, 2005

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

AND

HON'BLE SHRI M.R.MOHANTY, MEMBER (J)

.....

Sri Adhir Kumar Das, aged about 46 years, Son of Sri Dambarudhar Das, Vill/PO-Karilopatna, P.S.-Patkura, Dist.-Kendrapara, at present serving as Post Graduate Teacher, Jawahar Navodaya Vidyalaya, At/PO-Tudipaju, Bisipara, Dist.-Kandhamal-Phulbani, Orissa.

.....Applicant.

Advocate(s) for the Applicant - M/s. B.N.Tripathy, P.K.Padhi.

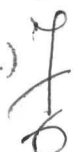
VERSUS

1. Union of India, represented through the Secretary to Government of India, Ministry of Human Resources Development, Department of Education, New Delhi;
2. The Commissioner, Navodaya Vidyalaya Samiti, I.P.Estate, Indira Gandhi Stadium, an autonomous organization, Ministry of HRD, Government of India, New Delhi-110002.
3. Deputy Director, Navodaya Vidyalaya Samiti, Regional Office, 160 Zone-II, M.P.Nagar, Bhopal;
4. Principal, Jawahar Navodaya Vidyalaya Samiti, At/PO-Tudipaju, Phulbani, District-Kandhamal-Phulbani, Orissa.

.....Respondents

Advocate(s) for the Respondents - Mr U.B.Mohapatra (Sr.S.C.)

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ORDER

SHRI M.R.MOHANTY, MEMBER (JUDICIAL):

Applicant, a Post Graduate Teacher in History of Jawahar Navodaya Vidyalaya at Bhubaneswar, was placed under suspension on 07.01.03 and on the same day, he was charge sheeted. On 17.03.03, the Applicant submitted his written statement of defense to the Disciplinary Authority. On completion of the enquiry, a report was drawn; a copy of which was supplied to the applicant on 23.06.03. On 22.07.03, on receipt of Enquiry Report, the Applicant submitted a representation to the Disciplinary Authority; wherein he ventilated his grievances. During August 2003 the order of suspension was revoked and, by an order under Annexure-A/9 dated 8/11.08.03, punishment was imposed on the Applicant. His pay was ordered to be reduced by two stages from Rs. 7500/- to Rs. 7100/- in the time scale of pay of Rs. 6500-200-10500/- for a period of two years with effect from 01.03.03. It was also made clear that the Applicant would not earn increment of pay during the said period of two years and that, on the expiry of the said period of two years, the reduction will have the effect of postponing his future increments of pay. The Applicant, however, unsuccessfully carried an appeal under Annexure-A/10, dated 25.09.03. On receipt of the Appellate Order under Annexure-A/11, dated 13.05.04, the Applicant approached this Tribunal in the present Original Application under Section 19 of the Administrative Tribunal's Act, 1985. Respondents having filed a Counter, the Applicant filed a Rejoinder in this case.



2. Among other points, the Applicant raised a point that, while passing the impugned order under Annexure-A/9 dated 8/11.08.03, the Disciplinary Authority did not take into consideration his representation dated 22.07.03 which was directed against the Enquiry Report. The Applicant also branded the impugned order (under Annexure-9 dated 8/11.08.03) to be a non-speaking one. The Applicant has also pointed out that the Appellate Order (under Annexure-A/11 dated 13.05.04) to be a non-speaking one.

3. On perusal of Annexure-A/11 dated 13.05.04 (the Appellate Order), it is seen that the same is bereft of any reason. A perusal of the order under Annexure-A/9 (passed by the Disciplinary Authority) also goes to show that the same is an un-reasoned one.

4. The plea of non-consideration of the grievances raised by the Applicant in his representation that was directly against the Enquiry Report, has not only been raised before this Tribunal in the present Original Application, but was also raised before the Appellate Authority; as is evident from the appeal memo at Annexure-A/10 dated 25.09.03. It appears from Appellate Order (at Annexure-A/11 dated 13.05.04) that the Appellate Authority did not take into consideration the said grievances of the Applicant. By filing Counter in this O.A., however, the Respondents have pointed out that the said representation of the Applicant received due consideration of the Disciplinary Authority before passing of the impugned order under Annexure-A/9

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dated 8/11.08.03. But, the said statement of the Respondents, as raised in the Counter, is not acceptable on the face of the fact that the Disciplinary Authority did not say so in the impugned order under Annexure-A/9 dated 8/11.08.03. While, it has clearly been stated in Annexure-A/9 dated 8/11.08.03 that a copy of the inquiry officer's report had been supplied to the charged officer for his submission/representation; it has not been stated therein about submission of such a representation or consideration of the points raised therein. For the said reason, the stand taken by the Respondents in their Counter (that the submissions made in the representation of the Applicant were taken into consideration, before passing of the final order) is un-acceptable; especially when no materials have been placed by the Respondents to substantiate their stand taken in their counter.


5. Since, before passing of the impugned order under Annexure-A/9 dated 8/11.08.03, the Disciplinary Authority omitted to take into consideration the representation of the Applicant (submitted, on receipt of the Enquiry Report) and since the impugned order is bereft of any well discussed reason, the same is not sustainable in the touch stones of judicial scrutiny. Similarly, the Appellate Order, being bereft of any reasons/bereft of consideration of the grounds set forth in the appeal of the Applicant, the same is also not sustainable.


6. As a consequence, both the orders of the Disciplinary Authority and that of the Appellate Authority are bound to be set aside. We order accordingly. While setting aside the impugned order under



Annexure-A/9 dated 8/11.08.03 and the Appellate Order under Annexure-A/11 dated 13.05.04, liberty is hereby granted to the Disciplinary Authority of the applicant to re-draw a final order, after taking into consideration the grounds set forth in the representation dated 22.04.03 (Annexure-A/8) of the Applicant. The Disciplinary Authority should also give a personal hearing to the Applicant and pass necessary reasoned/speaking orders.

7. In the above premises, this O.A. is allowed, by leaving the parties to bear their own costs.


(B.N.SOM)
VICE-CHAIRMAN


(M.R.MOHANTY)
MEMBER (JUDICIAL)

KUMAR