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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.


Original Application No. 98 of 2005
Cuttack, this the ~~23rd~~ day of January, 2009

B.Trinath Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the CAT or not?


(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)


(C.R. MOHAPATRA)
MEMBER (ADMN.)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No. 98 of 2005

Cuttack, this the 23rd day of January, 2009

C O R A M:

THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)
A N D
THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

Sri B.Trinath aged about 58 years son of Late B. Appanna working for gains as Lever Man A under Sr. Divisional Operations Manager, E.CO.Railway, Khurda Road resident of Village Palia , Po. Chatrapur, Dist. Ganjam, PIN 761 020.

.....Applicant

By the Advocate :Mr. Achintya Das.

- Versus -

1. Union of India service through General Manager, Rail Vihar, E.Co.Railway, Chandrasekharapur, PIN 751 023.
2. Member Staff, Railway Board, Rail Bhavan, New Delhi, PIN 110 001.
3. Divisional Railway Manager, E.Co.Railway, Khurda Road, PO. Jatni, Dist. Khurda, PIN 752 050.
4. Sr. Divisional Operations Manager, E.Co.Railway, PO. Jatni, Dist. Khurda, PIN 752 050.

....Respondents

By Advocate :Mr.R.C.Rath

O R D E R

MR. C.R.MOHAPATRA, MEMBER (A):-

Simultaneous reduction of rank from Switchman to the post of Lever Man (A) and pay of Applicant from Rs.4300/- to Rs.3050/- with stipulation that no increment and promotion shall be due during the currency of the punishment imposed by the Disciplinary Authority under Annexure-A/1 dated 22.5.2001 and the order of the appellate authority in rejecting the appeal of the Applicant under Annexure-A/12 are the subject matter of this OA filed U/s. 19

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of the Administrative Tribunals Act, 1985. The main ground of challenge of the order of punishment imposed by the disciplinary authority and confirmed by the Appellate Authority is that the punishment suffers from double jeopardy.

2. The back ground of the case is that during the incumbency of applicant as Switchman at Golanthra Station of erstwhile S.E. Railway, on 18.10.2000 there was an averted collision of trains. A major penalty charge sheet was issued to the applicant and after due enquiry the applicant was held to be responsible for the incident. Disciplinary Authority issued the above mentioned punishment order dated 22.5.2001. The Applicant carried the matter in appeal and on being dissatisfied with the order of Appellate Authority, he approached this Tribunal in the present Original Application pointing out that as there has been miscarriage of justice in the decision making process of the matter, the order of Disciplinary Authority imposing multiple punishment as also the order of the Appellate Authority rejecting the appeal of the Applicant are liable to be quashed.

3. Respondents, in their counter have stated that during the enquiry the Applicant was held to be responsible for the incident and after following due procedure of rules and principles of natural justice, the applicant was imposed with the order of punishment which was confirmed by the Appellate Authority. Since there has been no violation of any of the Rules and principles of natural justice have

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strictly been adhered to during enquiry, the order of punishment as also the order of the Appellate Authority need to be maintained.

4. It is the contention of the Applicant that the applicant was imposed with the punishment of penalty of reduction in grade as well as pay. While one comes under sub rule (v) the other comes under sub rule (vi) of Rule 6 of Railway Disciplinary Rules. As such, according to him, it amounts to imposition of multiple punishment and the impugned orders are liable to be quashed. In this connection he has relied on the decisions of Jabalpur Bench in the in OA No. 84/87, disposed of on 2.8.1988, Cuttack Bench in the case of Satyananda Nayak v UOI and others in OA No. 1021 of 2001 disposed of on 6.12.2002, and in the case of N.C. Jena v UOI and Others in OA No. 398 of 2003 disposed of on 17th December, 2004, Hyderabad Bench of the Tribunal in OA No. 495 of 2002 and the case of D. Ramanjaneyulu v Additional General Manager, S.C. Railway and others, reported in 2005 (1) SLJ (CAT) 180. This argument of the Applicant was strenuously opposed by the Learned Counsel for the Respondents by stating that the punishment imposed on the applicant does not amount to double punishment. It is consequential in nature. As such the impugned orders do not require any interference.

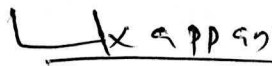
5. After giving in-depth consideration to various arguments advanced by the parties, we have perused the materials vis-à-vis the decisions (quoted above) placed on record. But we feel that there is no need to go into the depth of the matter as well as the decisions relied on by the applicant, cited above, as we notice that the issues involved


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in this case had come up for consideration before the Hon'ble Apex Court in the case of Union of India and another v G.Veerassamy-2004 SCC (L&S) 197. In the aforesaid decision the Hon'ble Apex Court after examining the Rules of the Railways held that reduction to lower time scale and fixation of pay at lower stage is not double punishment.

6. In view of the above we find that this OA sans any merit and is liable to be dismissed. We do so. But no order as to costs.


(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)


(C.R. MOHAPATRA)
MEMBER (ADMN.)

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