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OA No.202 of 2005
Surya Narayan Tripathy Applicants
Versus
Union of India & Others Respondents

Order dated: 17/02/ /2010

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THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

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In nutshell, the case of the Applicant is that after undergoing a course of Topographical Training Type-A he was appointed in the post of Surveyor under the Respondents (Respondent No.3) on 27.11.1981. Due to his illness, he proceeded on leave from 03/1990 to 03.03.1991. After becoming fit, he submitted his joining report before the Respondent No.3 on 04.03.1991. But the Respondent NO.3 did not allow him to join despite his repeated requests/approaches on the plea of his seeking resignation in letter dated 14.07.1993 with effect from 18.06.1993. Relying on an earlier letter dated 01.09.2004 purportedly written by him, a manufactured letter dated 09.01.1995 was issued by the Respondents in accepting his resignation w.e.f. 20.11.1994. In letter dated 30.01.1995, referring to a letter even not written by the applicant, Respondent No.3 intimated to the applicant that his request for withdrawal of his resignation is rejected. Vide letter dated 12.07.1999, Respondent No.3, relying on the letter of resignation and its acceptance, disallowed the request of the applicant to join in his duty. Thereafter, through representations addressed to Respondent No.2 dated 28.8.1999, 28.3.2001 and 12.07.2001 sought intervention and interference in the matter by way of removal of the injustice caused to him. He has also knocked at the door of the Chairman, Central Vigilance Commissioner and Respondent No.1 through representation dated 10.10.2001 and 30.6.2003 and there having no response to any of the representations addressed to various authorities, lastly by

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submitting representation dated 05.08.2003, he brought the matter to the notice of the President of India seeking interference and intervention in the matter by way of removing the injustice caused to him. His stand in substance is that he was a victim to a situation created by way of making fraud and cheating by the Respondents and in spite of bringing this fact to the notice of various authorities through repeated representations, since there was no response, he has approached this Tribunal in the present OA seeking the following reliefs:

“to admit the application, call for the records relating to the resignation of the applicant leading to issuance of Annexure-A/1, A/2, A/3 and A/4 and on perusal of records be pleased to direct a high level inquiry or in the alternate direct the Respondent No.4 to conduct investigation in accordance to law for the ends of justice;

And

To hold that the forcible absenteeism of the Applicant from his duty from 04.03.1991 to 20.11.1994 and thereafter till the Applicant is allowed to join as duty for all purposes and he is entitled to all the service benefits;

And

To impose exemplary cost on the Departmental Respondents.

And

To pass any other appropriate order(s)/direction(s)/relief(s) as deemed fit in the circumstances of the case.”

2. Respondents, besides merit also on the law of limitation, opposed the maintainability of this Original Application and have prayed for dismissal of this OA. According to the Respondents,, the applicant was required by the Inspector, CID, Crime Branch in connection with a case U/s. 420/471/468/34 IPC as he cheated several persons by forging the signature, letter pad, envelop, seals etc. of the Chief Minister of Orissa, Joint Secretary to Chief Minister, Orissa and others and also supplied forged experience certificate of Director, Survey of India to needy person requiring the said certificate for job purposes, after seizure of ~~incrementing~~ ^{incrementing} documents from the possession of Applicant. Apprehending his arrest, Applicant remained on long

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leave. While remaining on unauthorized leave, he tendered his resignation on 18.06.1993. His request was processed and the resignation of the applicant was duly accepted by the competent authority w.e.f. 21.11.1994 which was intimated to him in letter dated 09.01.1995. Thereafter, he requested withdrawal of his resignation, but the same was rejected and intimated to the applicant in letter dated 30.01.1995. By relying on the decision of the Hon'ble Supreme Court in the case of S.P.Jaipur v State of Rajsthan, JT 2001(I) SC 624 it has been stated by the Respondents that direction for CBI enquiry as sought by the Applicant can only be granted by the Hon'ble Supreme Court and High Court and not by this Tribunal and as such, this prayer of the applicant is liable to be rejected at the threshold. They have also denied the plea that the leave of the applicant was due to his illness. Similarly, the Respondents have also denied the allegation of the applicant that though he reported to duty with medical fitness on 04.03.1991 before the Respondent No.3; Respondent No.3 did not allow him to join. Had it been so, he would have immediately brought the fact of not allowing joining to the next higher authority which he did not do. Hence, this allegation of the applicant is nothing but an after thought and needs no consideration. Applicant by filing rejoinder while reiterating his stand taken in the Original Application also controverts some of the contentions of the Respondents taken in the counter.

3. Heard Learned Counsel for both sides and perused the materials placed on record. It is the main contention of the Applicant that the letter of resignation is not of his and the Respondents manufactured the documents stating to be the letter of the Applicant with a view to oust him from his employment and he was on leave due to his sickness and after becoming fit when he resumed his duty, he was not allowed to join. I do not find any justification to give credence to such a plea especially in the absence

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of sufficient proof that the signature of the applicant has been forged/planted by any one in the letter seeking resignation from service. It is also beyond imagination and comprehension as to why any one else will take such a step to do away with the service of the applicant. The application seeking resignation has been accepted by the authority only after verification and due application of mind. Even according to the Applicant after becoming fit he resumed his duty on 5.5.1992 but he was not allowed to join on the pretext of his letter of resignation and its acceptance. But no explanation has been given except stating that he was making repeated representations when provisions of the A.T.Act, 1985 clearly provide that in case no decision is taken on any representation within six months one can come to the Tribunal ventilating his grievance. On perusal of the documents dealing with the grievance of the Applicant, it appears that some of the relevant documents were received by the GEQD. Hence the order passed by this Tribunal for sending the records to GEQD has become redundant. However, the report of the GEQD is not available on record. No separate application seeking condonation of delay as required under the Act and Rules has also been filed by the applicant for approaching this Tribunal belatedly.

4. For the discussions made above, I find no reason to interfere in the matter. Hence, this Original Application is dismissed being devoid of merit and on the ground of limitation by leaving the parties to bear their own costs.

5. In view of the above, Registry is hereby directed to return the original records produced by the Senior Standing Counsel keeping the acknowledgement in support thereof in file.


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