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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.607 of 2005
Cuttack, this the 17th day of February, 2009

Govinda Chandra Sahu 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?

KB
(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

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

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.607 of 2005
Cuttack, this the 17th day of February, 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)

Shri Govinda Chandra Sahu, S/O. Late Srutidhar Sahu, At/Po.
Badagagua, Dist. Sundargarh, at present Superintendent
Central Excise and Customs, District-Sundargarh.

.....Applicant

By Advocate:M/s.A.K.Bose,P.K.Das, D.K.Mallick

- Versus -

1. Union of India represented by the Secretary to Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi-110 001.
2. The Commissioner, Central Excise and Customs, Bhubaneswar-1 Commissionerate, Rajaswa Vihar, Bhubaneswar, Dist. Khurda.
3. The Commissioner, Central Excise & Customs, Bhubaneswar-II Commissionerate, Rajaswa Vihar, Bhubaneswar, Dist. Khurda.
4. The Deputy Commissioner, Central Excise & Customs, Rourkela – II Divison, Nayabazar, Rourkela.

....Respondents

By Advocate – Mr.U.B.Mohapatra, SSC.

O R D E R

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

Applicant is working as Superintendent of Central Excise and Customs stationed at Sundergarh. As a result of disciplinary proceedings the Applicant was inflicted with the order of punishment of reduction of his pay by two stages from Rs.2300/- to Rs.2180/- in the time scale of pay of Rs.1640-2900/- for a period of three years from the date of the order with further order that he will earn increments of pay during the period of reduction and that on expiry of

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✓ this period the reduction will not have effect of postponing his future increments of pay vide order under Annexure-A/3 dated 29.06.1993.

He had taken up the matter with the higher authority by way of preferring appeal which did not yield any result under Annexure-A/12 he has approached this Tribunal in the present OA seeking quashing of the entire disciplinary proceedings initiated against him by the memorandum under Annexure-A/1 having ended with the order under Annexure-A/12.

2. In the counter filed by the Respondents it has been stated that for certain omission and commission the matter was handed over to the CBI for investigation and submission of report. On the basis of the report of the Central Vigilance Commissioner's advice a common proceeding was initiated against three officers namely Late B.V.Appadu, Shri G.C.Sahu and Shri S.C.H.Behera the then Inspectors and all were punished by the disciplinary authority on 26.6.1993. It has further been stated by the Respondents that S/Shri Appadu and Behera were the co accused in the offence for which proceedings were initiated against the Applicant. Both of them having been visited with the punishments like that of the Applicant, they approached this Tribunal in OA Nos. 69 of 1994 and 589 of 1994. In both the cases this Tribunal vide order dated 18.05.1995 and 24.09.1998 quashed the orders of punishments imposed by the disciplinary authority and confirmed by the Appellate Authority. It has been stated that against both the orders they have filed W.P (C) No. 12301 of 1999 before the Hon'ble High Court of Orissa and the final order of the Hon'ble High Court is still awaited. It has been averred

that in the other cases the Applicants having been inflicted with the punishment preferred appeal and after disposal of the appeal they approached this Tribunal whereas in the present case the Applicant without preferring appeal within the time provided under the rules by filing representation has unnecessarily thrown the blame on the department alleging that no decision has been taken on his appeal preferred by him. In view of the above, the Respondents have urged that since no appeal was preferred by the applicant, this OA is liable to be dismissed.

3. Heard the rival submissions of the parties and perused the materials placed on record including the disposed of records of OA Nos. 69 of 1994 and 589 of 1994 filed by other two colleagues of the Applicant. It is seen that after going through the entire matter and making vivid discussions this Tribunal had come to the conclusion that the punishments imposed on those applicants are not sustainable and accordingly quashed the same. Applicant is one of the employees entangled with the incident. In view of the commonality we have no hesitation but to hold that the punishment imposed on the Applicant under Annexure-A/3 is not sustainable. Non-filing of appeal cannot stand as a bar for holding that the order of punishment is not sustainable especially when in other two cases this Tribunal had already quashed the punishment imposed on those applicants.

4. In view of the above, we quash the proceedings initiated against the applicant as also the imposition of the order of punishment under Annexure-A/3 and the order of rejection of his representation under Annexure-A/12. We further direct that as a

consequence the applicant is entitled to all consequential service and financial benefits. However, the direction is subject to the out come of the pending Writ Petition (C) No. 12301 of 1999 before the Hon'ble High Court of Orissa filed against the orders of this Tribunal.

5. In the result, with the observations and directions made above, this OA stands allowed. No costs.

Kappan

(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

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

Knm, ps