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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.639 of 2005
Cuttack, this the 31st day of August, 2007.

Padmalochan Munsi ... Applicant
Versus
Union of India & Others ... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? No
2. Whether it be circulated to all the Benches of the CAT or not? No

Aditya
(N.D.RAGHAVAN)
VICE-CHAIRMAN

Kannan
(K.N.K.KARTHIYANI)
MEMBER(A)

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CUTTACK BENCH: CUTTACK.

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C O R A M:

THE HON'BLE MR. N.D.RAGHAVAN, VICE-CHAIRMAN
AND
THE HON'BLE MRS.K.N.K.KARTHIAYANI, MEMBER (A)

Shri Padmalochan Munsi, aged about 43 years, Son of late Kusa Munsi, at present working as Postal Assistant, Sambalpur Post Office, Sambalpur permanent resident of At-Bhaktabandakudo, Po-Bamprada, Via-Barkote, Dist. Deogarh.

..... Applicant.

By legal practitioner: M/s. T.Rath, Advocates.

-Versus-

1. Union of India represented through the Chief Postmaster General, Bhubaneswar.
2. The Superintendent of Post Offices, Sambalpur Division, Sambalpur.
3. The Postmaster General, Sambalpur.

... Respondents.

By legal practitioner: Mr.D.K.Bhera, ASC

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ORDER

SMT.K.N.K.KARTHIYANI, MEMBER(A)

This Original Application is filed against the order dated 9th January, 2002 treating the period of suspension as the period spent under suspension by the Respondent No.2 (Annexure-A/4). The allegation is that the order has been passed without authority as the Respondent No.2 is below in rank of the Appointing Authority of the Applicant.

2. The Respondents in their counter have pointed out that the applicant has not availed the remedies available to him under the relevant service rules as required under section 20 of the Administrative Tribunals Act, 1985. Moreover, the order of the Disciplinary Authority has not been assailed within the stipulated period of one year as required under section 21 of the Administrative Tribunals Act, 1985. Therefore, this Original Application suffers from the law of limitation also.

3. Heard Mr. T. Rath, Learned Counsel for the Applicant and Mr. D.K. Behera, Learned Additional Standing Counsel for the Respondents and perused the materials placed on record.

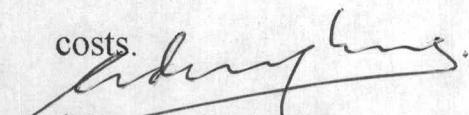
4. We shall take first objection into account. If the impugned order under Annexure-A/4 was passed without authority

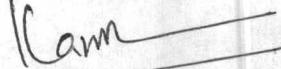
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by an Officer lower in rank than the Appointing Authority, the Applicant should have appealed to the next higher authority in the Department. The impugned order is one against which appeal lies as per sub rule (a) (iv) of Rule 23 of CCS (CCA) Rules, 1965. As the Applicant has not exhausted departmental remedies available to him under relevant service rules, we cannot entertain this OA as per Section 20 of the Administrative Tribunals Act, 1985. However, we make it clear that if the Applicant makes an appeal to the appropriate Authority within a period of 45 days from the date of receipt of this order, that authority should consider and dispose of the appeal of the Applicant on merit.

5. In the result, this OA is disposed of with the observation and direction made above. There shall be no order as to

costs.


(N.D.RAGHAVAN)
VICE-CHAIRMAN


(K.N.K.KARTHIAYANI)
MEMBER(A)