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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.677 OF 2005

Cuttack this the 13th day of July, 2006

CORAM:

HON'BLE SHRI JUSTICE R.K.BATTA, VICE-CHAIRMAN
AND
HON'BLE SHRI B.B.MISHRA, MEMBER(ADMINISTRATIVE)

...

Sri Ajaya Kumar Sahoo, aged about 43 years, S/o. Keshab Chandra Sahoo,
L.D.Clerk (under suspension), Regional Institute of Education,
Bhubaneswar, Dist-Khurda, Orissa

...Applicant

By the Advocates : M/s. K.C.Kanungo
S.Behera
C.Padhi

-VERSUS-

1. National Council of Educational Research and Training, New Delhi represented through its Secretary, Sri Aurobindo Marg, New Delhi-110018
2. Principal, Regional Institute of Education, Bhubaneswar, Dist-Khurda, Orissa

...Respondents

By the Advocates:Mr.U.B.Mohapatra, SSC
Mr.J.K.Nayak, A.S.C.

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O R D E R

(Oral)

SHRI JUSTICE R.K.BATTA, VICE-CHAIRMAN: The applicant seeks direction for setting aside the decision of the disciplinary authority contained in Memorandum No.1220 dated 14.2.2005. The applicant seeks further direction to the Respondents to treat the penalty imposed on him as a minor penalty in terms of Clause (iii) (a) of Rule 11 of CCS (CCA) Rules. The further directions sought by the applicant are that the disciplinary authority be directed to take revised decision in terms of Government of India O.M. dated 3.12.1985 (Annexure-A/6) for treating the period of suspension as a period spent on duty for all purposes under FR 54-B(4) and for paying the full pay and allowances in respect of the period of suspension under FR 54-B(3) and to release the full pay and allowance for the suspension period less subsistence allowance already paid.

2. We have heard counsel appearing on both sides.
3. The impugned order which is sought to be challenged at Annexure-A/7 had proposed to restrict the pay and allowance of the applicant during suspension to the subsistence allowance already drawn and also to treat the period of suspension as the period spent on duty only

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for the purpose of pension. The applicant was asked to make representation or submission against the said proposed Memorandum dated 14.2.2005 to the disciplinary authority within 15 days of the receipt of the Memorandum. The applicant did not make any representation. Learned counsel for the Respondents informed us that further period of 60 days was granted to the applicant to make representation, but no such representation was made. The applicant has thus, not availed of the opportunity of representation which was given under the impugned order and preferred to come to this Tribunal. The applicant has thus not exhausted the ~~alternative~~ remedy available to him and at a premature stage approached this Tribunal for setting aside the order at Annexure-A/7 on the ground that there exists extraordinary situation to entertain this application.

4. The situation which is created by the applicant himself cannot be considered extraordinary. The applicant should have filed representation, opportunity of which was given to him vide impugned Memorandum and we are informed that further period of 60 days was granted to file representation, but the applicant did not choose to file any such representation.



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5. In view of this, we are not inclined to entertain this application and the application is hereby rejected, with no order as to costs.

m/s
(B.B.MISHRA)
MEMBER(ADMN.)

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(R.K.BATTA)
VICE-CHAIRMAN