

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.09 of 2006
Cuttack, this the 14th day of May, 2009

Bhaskar Rao 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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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.09 of 2006
Cuttack, this the 14th day of May, 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)

.....
Bhaskar Rao, aged about 45 years, son of Late B.Lachhmaya,
At- Brahma Street, PO-Jeypore, Dist. Koraput.

.....Applicant

Advocate for Applicant: M/s. D.P.Dhalsamanta, P.K.Behera.
-Versus-

1. Union of India represented through its Director General, Department of Posts, Ministry of Communication, Government of India, Dak Bhawan, New Delhi-110 001.
2. Member (Personnel), Postal Service Board, Dak Bhawan, New Delhi-110 001.
3. Chief Postmaster General, Orissas Circle, Bhubaneswar, Dist. Khurda.
4. Director of Postal Services, Office of the Postmaster General, Berhampur Region, Berhampur-760001.
5. Senior Superintendent of Post Offices, Koraput Division, Jeypore-(K), istrict-Koraput-764001.

....Respondents

Advocate for Respondents: Mr.B.N.Udgata

O R D E R

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

Applicant who was a Postal Assistant in the Head Post Office of Koraput Division, having been visited with the punishment of Compulsory Retirement vide under Annexure-A/14 in departmental proceedings drawn up against him under Rule 14 of CCS (CC&A) Rules, 1965 vide SSPO's Koraput Division Memo No.F/M-4/91 dated 07.01.1993, preferred Appeal under Annexure-A/15 DATED 23.01.2004. The said appeal was rejected under Annexure-A/16 dated 28.02.2005. Challenging the aforesaid order of punishment under Annexure-A/15 as also the order of rejection of his appeal under

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Annexure-A/16 he preferred this Original Application under section 19 of the A.T. Act, 1985 with prayer to quash the above two impugned orders and direct the Respondents ~~in~~^{to} reinstate him to service with all consequential benefits.

2. Respondents in their counter have opposed the prayer of the Applicant. The contention of the Respondents in nut-shell is that there has been substantial compliance of the Rules and during enquiry the applicant was provided with adequate opportunity and the enquiry was conducted strictly in accordance with rules. The punishment imposed by the Disciplinary Authority was rightly upheld by the Appellate Authority. It has further been contended by the Respondents that as per the law, any interference in the order of punishment in disciplinary proceedings is warranted only where glaring injustice is seen to have been caused in the decision making process. Since there has been no injustice in the decision making process of imposing the punishment and rejecting the appeal of the Applicant, according to the Respondents this OA sans any merit and is liable to be dismissed.

3. It is seen that during the pendency of this OA, the Applicant preferred revision petition to the Chief Postmaster General, Orissa Circle much after filing of this Original Application i.e. on 03-04-2007. Thereafter by filing MA No. No.278/2007, the Applicant has sought direction to the Respondents to consider and dispose of the said revision petition preferred by him. In order dated 20.04.2007 this Tribunal directed as under:

“.....in view of the fact that the Applicant is no more in service, without expressing any opinion on

the merit of the OA as well as MA, the Respondents 2 and 3 are hereby directed that in case any such Revision Petition has been received and the same is pending till date, then they may take a final decision on the same as per the Rules and Law within a period of 45 days from the date of receipt of copies of this order.....".

4. In compliance of the order of this Tribunal dated 20.04.2007, the Respondents considered and rejected the revision petition in order dated 12.07.2007. Thereafter by filing MA No. 542 of 2007 the Applicant sought to bring the aforesaid order under challenge which prayer of the Applicant was allowed by this Tribunal in order dated 13.05.2009 and the said order is marked as Annexure-A/17. On perusal of the order under Annexure-A/17, it is evident that the Respondents rejected the revision petition of the applicant not on merit but on the ground of limitation.

5. Heard the parties and perused the materials placed on record. Rejection of revision of petition on hyper-technicality of law of limitation came up consideration in OA No. 736 of 2006 filed by Pranab Kumar Jena v Union of India and others. The Division Bench of this Tribunal held as under:

"7. In the light of the above discussion, since merit of the matter has not been considered by the authorities on the revision/mercy petition filed by the Applicant especially when the applicant has been visited with the punishment of removal from service which has direct nexus with Article 21 of the Constitution of India, the order under Annexures-A/3 & A/4 are hereby quashed and the matter is remitted back to the Respondent No.2 to consider and dispose of the revision/mercy petition of the applicant on merit, without being influenced by the stand taken in the counter, in a reasoned order within a period of 90(ninety) days from the date of receipt of this order and communicate the result thereof to the applicant within a period of

15(fifteen) days thereafter. There shall be no order as to costs."

6. Also rejection of petition on the ground of law of limitation came up for consideration in OA No. OA No. 218/2009 filed by A.K.Bhoi -v-Union of India and Ors and after due discussion and deliberation this Bench of the Tribunal in order dated 28.05.2009 held as under:

"In view of the above, I find that the order of rejection of the appeal of the Applicant under Annexure-4 dated 23rd October, 2008 is not sustainable in the eyes of law. Hence issuing of notice may cause more delay which would go against the interest of both sides. Therefore, as agreed to by both the Counsel, without expressing any opinion on the merit of the matter, the order under Annexure-4 is hereby quashed. The matter is remitted back to the Appellate Authority for considering the appeal of the Applicant **on merit** within a period of 60 (sixty) days from the date of receipt of this order and communicate the result thereof to the Applicant."

7. The above being the view taken by this Tribunal in earlier Original Applications filed in this Tribunal, we find no justifiable reason for deviation from the same. In view of the above, without going into the merit of the matter, we quash the impugned order under Annexure-A/17 and direct the Respondent No.3 to consider and dispose of the revision petition of the Applicant afresh without being influenced by the contentions raised in the counter filed in this case **on merit** within a period of 45 days from the date of receipt of this order and communicate the result to the applicant within the said period. There shall be no order as to costs.

Kappan
(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

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