

| NOTES OF THE REGISTRY | ORDERS OF THE TRIBUNAL |
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| | <p><u>Order dated : 8.4.05</u></p> <p>Heard Mr. S.K.Mohapatra, Ld. Counsel for the applicant and Mr. U.B.Mohapatra, Ld. Sr. Standing Counsel representing Respondent No.1 and Mr. A.K.Bose, Ld. Counsel representing Respondent Nos. 2, 3 and 4.</p> <p>2. The applicant, in this case, Shri Brundaban Bhoi who is working as TGT in Physical Education of D.N.School, attached to the Regional Institute of Education, Bhubaneswar has approached the Tribunal being served with a memorandum dated 26/29.4.02, wherein the principal, Regional Institute of Education (Resp. No.3) called upon him to explain his act and conduct in connection with his involvement in a criminal case number 9343/01 and his behaviour/conduct connected there to. Before the memorandum could be disposed of by hearing the applicant, for which he was given time, he approached the Tribunal challenging the said memorandum on the ground that he was being called upon to explain his involvement without holding any enquiry without and giving opportunity to hear to him and that the proposed termination of service was violative of the principles of natural justice.</p> <p>3. At the admission stage after hearing both the sides and after considering the question of interim prayer, we had directed inter alia that the service of the applicant should not be terminated without leave of this Tribunal. Thereafter, this matter remained hanging, undergoing several adjournment, either on the prayer made by the Ld. Counsel for the applicant or on the other grounds. However, the matter</p> |

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has been heard today when all the parties are present.

4. We find that the memorandum dated 26/29.4.02 was served on him under the Rule 3 of CCS(Conduct) Rules,1964 and he was given an opportunity to explain his conduct vis-a-vis the allegation brought against him. It is also found that the applicant having joined the Organization on 27.7.01 was a temporary employee at that point of time and in the matter of service conduct, he was governed by CCS(Temporary Service) Rules,1965. In the circumstances the legal grounds raised by him are of no great help. Further, it is wrong to say that he had not been given benefit of principles of natural justice because the memorandum itself served on him called upon him to explain his conduct. Be that as it may, regulation of work and conduct of an employee being the sole prerogative of the employer under the Conduct Rules referred to earlier, this case is premature, and, we therefore, dispose it of by remanding the matter to the Disciplinary Authority to dispose of the memorandum dated 26/29.4.02 (Annexure-7) served on the applicant after hearing him on merit.

5. With the above direction, this O.A. is disposed of. No costs.

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issued to the counsel
for both side.

13/4/05
S.O.

13/4/05

[Signature]
08/04/05
Member (Judicial)

[Signature]
Vice-Chairman