

O.A.No. 511 of 2006
Manabendra Mitra Applicant
-Versus-
Union of India & Others Respondent
.....

Order dated: the 6th August, 2010.

C O R A M
THE HON'BLE MR.G.SHANTHAPPA, MEMBER (J)
A N D
THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)


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Applicant is a Senor Accountant Office of Accountant General, Orissa, Bhubaneswar. In this Original Application filed under section 19 of the Administrative Tribunals Act, 1985, he seeks to quash the report of the IO at Annexure-25, the charge sheet at Annexure-A/4 and direct the competent authority to conduct de novo enquiry in compliance with the principles of natural justice.

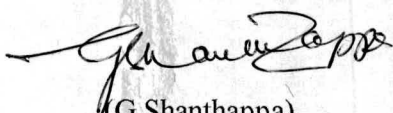
2. It is the contention of the Applicant's Counsel that charge sheet was drawn and served on the applicant on the complaint of Shri Mandal but neither the name of Shri Mandal finds place in the list of witness nor the complaint based on which charge sheet was drawn up was mentioned in the list of documents annexed to the charge sheet. Hence according to the Applicant on that ground the charge sheet needs to be quashed. Next contention of the Applicant is that the IO informed the Applicant that the Applicant can go through the documents during the course of enquiry. Subsequently, Applicant submitted his reply to the charge sheet. Then IO was appointed. During course of enquiry, Applicant submitted his representation enclosing thereto medical certificates expressing his inability to attend the enquiry from 28.06.2006 to 12.07.2006 due to his illness. The IO at one hand granted time to the applicant and on the other hand proceeded with the enquiry, concluded it *ex parte* and submitted the report to the Disciplinary Authority. On receipt of the report of the IO through DA, Applicant submitted



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his reply to the said *ex parte* enquiry report requesting the Disciplinary Authority not to take any action on the basis of the *ex parte* enquiry report. At this stage, Learned Senior Standing Counsel appearing for the Respondents submits that ~~as~~ soon after submission of representation the applicant has approached this Tribunal and this Tribunal granted the interim order of stay, no order has been passed by the Disciplinary Authority on the said representation of the Applicant, and, therefore, now liberty be given to the Disciplinary Authority to take a view on the representation submitted by the Applicant ~~on~~ ^{on} the report of the IO. Learned Counsel appearing for the Applicant agreed to the submission of Learned SSC that no final order has been passed by the Disciplinary Authority till date.

3. We have considered the rival submission of the parties and perused the materials placed on ~~re~~ record. We may state that at this stage discretion is available with the Disciplinary Authority to pass appropriate order withdrawing the charge sheet, adding Shri Mandal as one of the Witness and complaint petition as one of the documents, setting aside the report of the IO and passing order for de novo if he is satisfied that non-observation of such procedure and conclusion of the enquiry was in any manner de hors the rules or was in violation of the principles of natural justice causing injustice to the delinquent. Above being position of Rules and law and in view of the facts narrated above, without expressing any opinion on the merit of the matter, we dispose of this Original Application by granting liberty to the Disciplinary Authority to pass order by taking into consideration the representation submitted by the applicant on the report of the IO within a period of two months from the date of receipt of copy of this order. There shall be no order as to costs.


(C.R. Mohapatra)
Member (Admn.)


(G. Shanthappa)
Member(Judl.)