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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.736 of 2006
Cuttack, this the 29th day of April, 2009

Pranab Kumar Jena 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?

Kappan

(JUSTICE K.THANKAPPAN)
MEMBER (JUDICIAL)

C.R.Mohapatra

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

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O.A.No.736 of 2006
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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)

.....
Pranab Kumar Jena, Aged about 36 years, S/o. Abhinas Ch.
Jena, At/Po. Katisahim Via-Kamard, Dist-Balasore.

.....Applicants
Advocate for Applicant:M/s.B.K.Pattanaik,A.C.Gahana
-Vs-

1. Union of India represented by the Secretary to Government of India, Ministry of Communication, Dak Bhawan, New Delhi.
2. Chief Postmaster General, Orissa Circle, Bhubaneswar, At/Po.Bhubaneswar, Dist. Khurda.
3. Director of Postal Service, Head Quarter Region, Bhubaneswar, Dist. Khurda.
4. Superintendent of Post Offices, Balasore Division, At/Po/Dist.Balasore.

....Respondents

Advocate for Respondents: Mr.U.B.Mohapatra,SSC.

O R D E R

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

Applicant was working EDBPM of Katisahi Branch Post Office. Allegation of omission and commission having been proved against him he was removed from service. Appeal preferred by him having been rejected he approached this Tribunal in OA No.949 of 2004. In order dated 27.04.2005 this Tribunal disposed of the matter holding as under:

"By filing a Memo dated 27.04.2005 Learned Counsel for the Applicant seeks to withdraw the OA to file a revision petition before the competent authority.

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Having heard both the parties, prayer made in the memo is allowed and accordingly the OA is disposed of. No costs."

2. It is seen from the record that the revision petition preferred by him has been rejected under Annexure-A/3 dated 28.03.2006 and reiterated in letter under Annexure-A/4 dated 30.05.2006 on the ground of being barred by time in preferring the petition, without going to the merit of the matter which the Applicant challenges in this Original Applicant filed by the Application under Section 19 of the A.T. Act, 1985.

3. Respondents by filing counter opposed the prayer of the Applicant.

4. Applicant has also filed rejoinder contesting the stand taken by the Respondents in their counter.

5. Having heard learned counsel for the Applicant perused the materials placed on record.

6. During hearing learned Counsel for the Applicant relying on the order under Annexures-A/3 & A/4 has contended that since the merit of the matter has not been examined by the authority with whom power has been vested to undo the wrong committed in the decision making process, in all fairness, the Respondents may be directed to decide the matter on merit instead of rejecting it on the ground of hyper-technicality rule of law of being barred by time of making the revision/mercy petition by the Applicant. There was not much stress given to the above submission by the Learned Counsel appearing for the Respondents. It is trite law that justice must not be

done but appears to be done and hyper-technicality rule of law of limitation should not stand on the way of dispensation of justice.

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.

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(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

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