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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH

O.A.NO. 749 of 2006  
Cuttack, this the 21<sup>st</sup> day of December 2009

Jagdish Prasad Dash ..... Applicant  
Vrs.  
Government of Orissa and another..... Respondents

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporters or not?
- 2) Whether it be sent to the P.B., CAT, or not?

(C.R.MOHAPATRA)  
ADMINISTRATIVE MEMBER

(K.THANKAPPAN)  
JUDICIAL MEMBER

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH

O.A.NO. 749 of 2006

Cuttack, this the 26<sup>th</sup> day of December 2009

**CORAM:**

HON'BLE MR.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER  
AND  
HON'BLE MR. C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

.....

Jagdish Prasad Dash, aged about 62 years, son of late Bauri Bandhu Dash, resident of N1/167, Nayapalli, Bhubaneswar .....Applicant

Advocates for applicant

- M/s Santosh Ku. Pattnaik,  
S.K.Pattnaik, U.C.Mohanty,  
P.K.Pattanaik, N.Satpathy,  
D.Pattnaik & S.P.Das.

-versus-

1. Government of Orissa, represented through Chief Secretary, Government of Orissa, Orissa Secretariat, Bhubaneswar, Orissa.
2. Union of India, represented through its Secretary, Department of Personnel & Training, Government of India, North Block, New Delhi 110 011. .... Respondents

Advocates for respondents – Mr.U.B.Mohapatra, Sr.CGSC(for R-2)  
Mr. A.K.Bose, Govt.Advocate(for R-1)

.....

ORDER

JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

Heard Shri S.K.Pattnaik, learned counsel for the applicant, Sri A.K.Bose, learned Government Advocate for the State of Orissa, and Sri U.B.Mohapatra, learned Senior Standing Counsel appearing on behalf of the Union of India, and perused the materials on record.



J.A.

2. The applicant is a member of Indian Administrative Service. While working as Chairman-cum-Managing Director, Orissa State Beverages Corporation Ltd., Bhubaneswar, for the period from 9.1.2002 to 20.6.2003, on the allegation of having committed serious breach of financial and administrative discipline by allowing withdrawal of cash of Rs.25 lakhs through cheques without official requirement/purpose and re-deposited the said amount on 14.3.2002, the applicant had been issued with a memorandum of charge dated 31.7.2004 (Annexure A/3), i.e., on the date of his retirement, against which he has submitted written statement of defence at Annexure A/4 dated 20.8.2004, with the following prayer:

“16. In the above background if Government feel that (i) I have flouted the budgetary ethics by drawing excess over the provision under any unit of appropriation (ii) if I have violated any accounting procedure adopted by the Board of Directors by means of a resolution (iii) if the Corporation has sustained any loss (iv) if my performance was perfunctory (v) if my past track records show that I was prone to such type of mischief (vi) if the Board of Directors have recommended action against me for the alleged misdemeanor (vii) if the alleged aberration is an offence (an offence is said to be committed when one gains at the cost of the other) by which the image of the Corporation or the Government was in anyway tarnished (viii) if the resource of the State was adversely affected and the Ways and Means position was in anyway disturbed (ix) if I have violated any provision of the Company Act, 1955, then I will humbly accept any punishment inflicted on me by Government. I have already been punished. The FIR by Vigilance was given wide publicity both by print and electronic media

(A)

which I had watched and endured with tears in my eyes. The proposed punishment will only add salt to the injury.

17. I only pray that let no other officer be punished in this case since the entire plan was only mine. I do not want to examine any witness nor do I solicit any personal hearing. This is also my last explanation."

Since there was no spectacular progress in the matter the applicant went on preferring representation after representation, in response to which he received Annexure A/6 dated 10.10.2006 issued by the Government in General Administration Department, intimating that as per statutory provision of Rule 6(2) of AIS (DCRB) Rules, 1958, sanction of final pension or gratuity is not permissible until conclusion of the disciplinary proceedings. Being aggrieved with this reply, the applicant has moved this Tribunal in the present O.A. seeking the following relief:

"In this light of the above facts and circumstances, it is therefore humbly prayed that the Hon'ble Tribunal may be pleased to quash the departmental proceeding pending against the petitioner/applicant and direct the Govt. to disburse/pay forthwith the terminal benefits due and payable to the applicant therein along with the penal interest @18% p.a. for the delayed period of payment along with costs/expenditures of this proceeding."

3. As per order dated 7.12.2006 this Tribunal directed notice to the Respondents. However, the applicant's Misc. Application No.251 of 2007 for interim direction to Respondents to release the terminal benefits including pension and gratuity during pendency of the O.A. having not been considered by this Tribunal as per order dated 10.4.2007, the applicant moved the Hon'ble High Court of Orissa in W.P.( C ) No. 6402

of 2007, inter alia, assailing the continued delay or inaction of the Government under a 'garbing mechanism' to punish him. The Hon'ble High Court of Orissa, in consideration of the said writ petition, disposed of this matter as per judgment dated 1.8.2007, which reads as under:

"Heard learned counsel for the petitioner and the learned Additional Government Advocate for the State.

Brief facts of the case are that the petitioner while serving as the Chairman and Managing Director of the Orissa State Beverage Corporation retired from serving with effect from 31.7.2004. On the very date of retirement a charge sheet was served on him for misconduct of serious financial irregularities for allowing withdrawal of Rs.25 lakhs from the Bank and again depositing the same between 09.01.2002 to 14.3.2002. Although the petitioner submitted his show cause admitting the allegation, no final decision has yet been taken thereon as a result of which he is deprived of his service benefits like final pension and gratuity even after three years of his retirement. Therefore, he moved the Central Administrative Tribunal in OA No. 749 of 2006 but the said case has not yet been disposed as one of the Members constituting the Bench declined to hear the matter.

By means of this writ petition, the petitioner has prayed for quashing of the departmental proceeding pending against him.

We are not inclined to grant such relief.

However, since the petitioner retired in the year 2004 and one of the Members of the Tribunal has refrained from deciding the case, we consider it appropriate at this stage to direct opposite party no.1 to conclude the departmental proceeding against the petitioner as expeditiously as possible preferably within a period of two months from the date of receipt of copy of this order. It may be stated here that we have not considered the case of the petitioner on merits one way or the other."

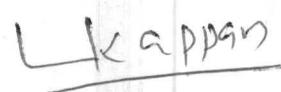
4. Perusal of the order of the Hon'ble High Court makes it very clear that the applicant had prayed for the same relief in the aforesaid writ petition as in the present O.A. before this Tribunal and for the reasons

- 5 of 4

recorded, the Hon'ble High Court taking note of all the facts, directed the opposite party No.1 therein to conclude the departmental proceedings against the applicant as expeditiously as possible, preferably within a period of two months from the date of receipt of the order. In this context, it is to be noted that although Respondent No.1 has filed counter to this O.A. on 26.3.2007, i.e., before the writ petition could be disposed of, we are unable to know the exact position where the matter now stands after issuance of the direction by the Hon'ble High Court. Be that as it may, since the Hon'ble High Court has already disposed of the prayer of the petitioner in W.P. ( C ) No. 6402 of 2007, which had formed the subject matter of the present O.A., in our considered view, there remains nothing more to be adjudicated by this Tribunal.

5. In the above view of the matter, the O.A. is dismissed as infructuous. No costs.

  
(C.R.MOHAPATRA)  
ADMINISTRATIVE MEMBER

  
(K.THANKAPPAN)  
JUDICIAL MEMBER