

O.A. No. 839 of 2006
Md.Zakria ... Applicant
Versus
UOI & Ors. ... Respondents
.....

1. Order dated ~~12th~~ November, 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)
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Instead of going into details of the matter it would suffice to say that at the conclusion of the disciplinary proceedings initiated against the applicant under Rule 14 of the CCS (CC&A) Rules, 1965, vide order under Annexure-A/1 he was visited with the punishment of reduction to the lower post of Gr.D until he is found fit after a period of three years from the date of the order vide order under Annexure-A/5 dated 29th June, 2001. It is the case of the Applicant that the subject matter of the disciplinary proceedings at the conclusion of which he was visited with the aforesaid punishment was also the subject matter of consideration in GR Case No.4146 of 1994 before the Learned Sub Divisional Judicial Magistrate, Bhubaneswar in which order of acquittal was passed in his favour vide order under Annexure-A/8 after which by preferring revision under Annexure-A/9 dated 21.08.2003, in view of his acquittal in the criminal case, he had sought to annul the order of punishment imposed on him in the disciplinary proceedings.

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As it appears from record, the Chief Postmaster General, Orissa Circle, Bhubaneswar, Respondent No.2, rejected the said revision petition on the ground of delay vide order under Annexure-A/10 dated 02.05.2006 to the effect that the revision has been preferred by the applicant after two years instead of six months of the order of punishment. Thereafter, by filing the present OA the applicant challenges the orders under Annexure-A/5, A/7, A/9 & A/10 respectively. By filing counter the Respondents opposed the stand taken by the Applicant in his Original Application.

2. Heard Learned Counsel for both sides and perused the materials placed on record. It is trite law that action taken under substantive and procedural laws will have to pass the tests of reasonableness. The test of reason and justice cannot be brushed away. Limitation should not stand in the way of substantial justice. The Hon'ble Apex Court has also deprecated the resort to plea of limitation by public authority to defeat any just claim of citizen. This Bench of the Tribunal have also held in several cases in past that hypertechanical law of limitation should not be resorted to while considering the appeal /revision of an employee made against the order of punishment in disciplinary proceedings.

2. In the light of the discussions made above,, since merit of the matter has not been considered by the authorities on the revision petition filed by him after his acquittal in the

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criminal case, the order under Annexure-A/10 is hereby
quashed and the matter is remitted back to the Respondent
No.2 to consider and dispose of the revision petition of the
applicant on merit and pass a reasoned order within a period of
90(ninety) days from the date of receipt of this order. This OA is
accordingly disposed of. There shall be no order as to costs.

Kappan
(JUSTICE K.THANKAPPAN)
MEMBER (JUDICIAL)

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