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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 796 OF 2002
Cuttack this the 13th day of February/2004

Janakram Panigrahi ... Applicant(s)

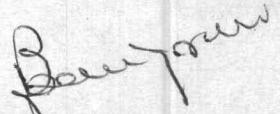
-VERSUS-

Union of India & Others ... Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?


(B.N. Sasmal)
VICE-CHAIRMAN (A)


(B.P. Panigrahi)
VICE - CHAIRMAN (J)

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CORAM:

THE HON'BLE MR. B.N. SOM, VICE-CHAIRMAN(A)
AND

THE HON'BLR MR.JUSTICE B.PANIGRAHI, VICE-CHAIRMAN(J)

Janakram Panigrahi
At/PO/Dist-Jharsuguda,
At Present L.S.G. P.A.
Bargarh H.O. (Under suspension)

Applicant

By the Advocates

Mr.D.P.Dhalasamant

-VERSUS-

1. Union of India represented through Chief Post Master General, Orissa, Bhubaneswar-751001
2. Director of Postal Services, Sambalpur Region, Sambalpur-768001
3. Superintendent of Post Offices, Sambalpur Division, Sambalpur-768001

Respondents

By the Advocates

Mr.A.K.Bose, S.S.C.

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O R D E R (ORAL)

Per B.PANIGRAHI, V.C.(A): In this case the applicant has challenged the initiation of disciplinary proceedings under Annexure-3 to the Original Application. From the facts set out in the O.A. it has emerged that on 13.4.1992 the applicant was placed under suspension in contemplation of a disciplinary proceedings. Article of charges had been communicated under Rule-14 of CCS(CCA) Rules, 1965 to the delinquent applicant on 14.2.1995. The disciplinary authority, however, in course of proceeding closed the



disciplinary proceedings on the ground that the delinquent was facing a C.B.I. case, which was pending at that relevant time. It is also stated that the said departmental proceedings was terminated without prejudice to the rights of the authorities to start a de novo proceedings. Even after the departmental proceedings was dropped, but the authorities continued with the spension of the delinquent for which he filed a case before this Tribunal and the Tribunal issued a direction to immediately reinstate the applicant. But as they failed to comply with the direction, therefore, the delinquent once again filed a Contempt Petition in this Court. During pednency of the C.P., the Respondents filed a Writ Petition before the Hon'ble High Court bearing O.J.C. No.1892/2002, which stood dismissed on 17.7.2002. The Respondents could not have initiated a disciplinary proceedings just before the reinstatement of the delinquent applicant, with a view to deprive him of the benefits that could be given to him. Therefore, the delinquent being aggrieved by such disciplinary proceedings has filed this case.

2. The Respondents have filed their reply, in which they have stated that the previous departmental proceedings was dropped since it may fail on technical ground as the grounds set out in the article of charges were not adequate and for more opportunity could be given to the applicant in the aforesaid articles of charge. Merely because of the departmental proceedings was dropped that by itself does not take away the right to initiate a fresh departmental proceedings with more material particular.

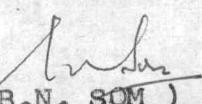
so that the delinquent could get a better chance to submit his show cause. It has also been further submitted that since all the documents were with the CBI Court the Respondents were not at that time prepared to conclude the inquiry for which they dropped the proceedings.

3. Shri D.P.Dhalasamant, the learned counsel for the applicant vehemently contended that since fresh ~~departmental~~ proceedings was initiated after a lapse of about a decade from the date when the delinquency was alleged to have been caused by the applicant, therefore, after such unexplained delay the proceedings itself is not tenable. It has been further submitted that as the first disciplinary proceedings was dropped, the Respondents are not competent to again proceed with a fresh case with the same sets of facts. Thirdly it has been argued that the Respondents-Department proceeded to penalize the applicant just six months before his retirement only to deprive him to get his retiral benefits.

4. The articles of charges disclosed that there were severe allegations alleged to have been committed by the delinquent. It is true that the CBI proceeding is pending at the moment and that by itself does not preclude the authorities to proceed with a preliminary ~~departmental~~ proceedings. Further that if in the same sets of facts it is necessary to prove the articles of charges, the Respondents-Department should have also obtained the copies of the records from the CBI Court and proceed in the ~~departmental~~ proceedings. That cannot be taken as a ruse to delay the proceedings for indefinite

period. It seems that the delinquent applicant has already retired from service. It is also uncertain as to how much further delay may be caused in concluding the CBI inquiry. The delinquent cannot be asked to wait for such indefinite period. The delinquent, after his retirement should not suffer the uncertainty about such proceedings in the departmental case. Therefore, in the aforesaid premises, we direct the disciplinary authority to conclude the proceeding pending against the delinquent applicant as expeditiously as possible, but not later than four months from the date of communication of this order, after due observance of procedure and law. In case they are not in a position to conclude the departmental proceedings, it shall be deemed to have been closed and the authorities shall release all the retiral dues to the applicant. We hope and trust, the applicant in his own interest shall also render all such assistance which would enable the Respondents for concluding the disciplinary proceedings.

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


(B.N. SOM)
VICE-CHAIRMAN (A)


(B.P. PANIGRAHI)
VICE-CHAIRMAN (J)

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