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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 1181 of 2002
Cuttack, this the 16th day of April, 2004.

Akrura Bhei.

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Applicant.

-Versus-

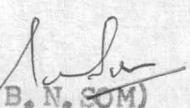
Union of India & Ors.

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Respondents.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? No
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No


(B. N. SASMAL)
VICE-CHAIRMAN


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

16/04/04

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 1181 of 2002
Cuttack, this the 16th day of April, 2004.

CORAM:

THE HONOURABLE MR. B. N. SOM, VICE-CHAIRMAN

AND

THE HON'BLE MR. M. R. MOHANTY, MEMBER (JUDL.).

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Akrura Bhoi, Son of Jadhishir Bhoi,
Village-Luhurapalli, Po:Bhadra,
PS:Saintala, Dist. Bolangir, ORISSA. Applicant.

By legal practitioner: M/s. A. K. Jena,
S. Samantaray,
S. C. Sharma,
J. Majhi,
Advocates.

-Versus-

1. Chairman, Ordnance Factories Board,
S. K. Bose Road, Kolkata-700 001.
2. Senior General Manager and Disciplinary
Authority, Ordnance Factory, Po: Badmal,
Dist. Bolangir-767 770 (Orissa). ... Respondents.

By legal practitioner: Mr. A. K. Bose, Sr. Standing Counsel.

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL):-

Applicant, a Darwan of the Establishment of Government of India, Ordnance Factory at Bolangir in the State of Orissa, having been removed from service (by an order dated 8th April, 2002) in a disciplinary proceedings under Rule-14 of the CCS(CCA) Rules, 1965, has preferred this Original Application under section 19 of the Administrative Tribunals Act, 1985 with

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prayers for reinstatement with backwages and for regularisation of the entire period of service.

2. By filing a counter, the Respondents Department have contested the matter stating therein that the Applicant was imposed with the order of punishment; as the charges framed against him were proved through the Court of Inquiry. It has been submitted by them that since, despite notices, the Applicant did not respond, the order of punishment was finally imposed under intimation to him. It has been further submitted that since the Respondents' Organisation is a Defence Unit and the job of Darwans is essential one; considering the offence, he was considered to be not a fit person to continue in service and, accordingly, he was imposed with the order of punishment of removal from service.

3. Heard learned counsel for both sides and perused the materials placed on record. On the direction of this Tribunal, the Respondents have also produced the disciplinary proceedings file; which has also been perused.

4. On perusal of the records, it is seen that the Applicant was chargesheeted under Rule-14 of CCS(CCA) Rules, 1965 on 03.08.1999 for gross misconduct of (1) unauthorised absence ~~on~~ 15.5.1999 and on 25.5.1999; (2) unauthorised absence w.e.f. 2.6.1999 to 11.7.1999 and (3) of committing such offences habitually and no improvement having been shown, despite the issue of charge-sheet for unauthorised absence during the period September, 1998 to December, 1998, which is unbecoming on the part of a Govt. servant and such conduct being in violation of Rule 3(1)(iii) of

the CCS(Conduct) Rules, 1964. It is seen that charge-sheet in question was received by the Applicant on 5.8.1999 and, since he did not file any reply thereto, a reminder was given to him on 25.11.1999, which he received on 29.11.1999 and despite that, since the Applicant did not submit any reply, he was again allowed time on 12.2.2000. Inspite of that, the Applicant did not submit any reply and, in the said premises, Inquiring Officer and Presenting Officer were appointed with due notice to the Applicant. As is evident from the disciplinary proceedings file, despite due notice the Applicant did not turn up to attend the enquiry and only on 4.8.2001, he sent a letter (alongwith a medical certificates) stating therein that as he was to be on long medical treatment from 1.2.2001 to 5.7.2001 and, that is why he was not in a position to attend the enquiry and requested for time to attend the enquiry. From the certificate it is seen that he was under medical treatment from 1.2.2001 and he was declared to be fit on 6.7.2001. The Applicant did not appear in the enquiry even after 6.7.2001 and, accordingly, the enquiry was closed ex parte. The Presiding Officer submitted his written brief, which was sent to the Applicant on 31.7.2001 and acknowledged (by the Applicant) on 31.7.2001. As there was no response despite repeated notices/letters, as is evident from the disciplinary proceedings file, the I.O. submitted his report on 31.12.2001 by recording his findings that the Applicant is guilty of the charges. It appears further that the copy of the report of the Inquiring Officer was sent to the Applicant on 8.1.2002 and on 25.1.2002 asking him to furnish his reply, if any, and as, there was no response, the Disciplinary Authority passed the

final order of removal on 8.4.2002.

Against the said order of punishment, it is the case of the Applicant that he had submitted a representation (under Annexure-11 dated 15.4.2002) but no action has been taken. The Respondents have not ^{even} whispered a single word (in its counter) as regards the representation under Annexure-11 dated 15.4.2002. It is also not evident from the concerned file that such a representation has been received by the Respondents.

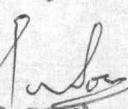
The main plank of the argument of the Applicant is that due to his illness he could not attend the enquiry and the order of punishment is highly disproportionate.

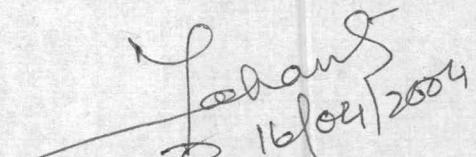
5. The Applicant has not submitted any material (say medical certificates) to show as to from which date to which date he was ill; for which he was prevented from attending the enquiry. If the Applicant was not well, he could have easily requested to the authorities for allowing him opportunity to defend his case through a defence Assistant. As such, this plea of the Applicant is not acceptable in absence of any material proof to support the said plea.

6. That apart, though he received the charge-sheet and notices of day to day enquiry, he did not bother to attend or furnish any written statement. Therefore, we are inclined to hold that the Applicant was not at all vigilant in the matter of the disciplinary proceedings that was initiated against him. As regards, the plea of the Applicant that the punishment is disproportionate to the gravity of the offence, it has been submitted by the Respondents that the

job of Darwan in a defence establishment (like the present one) is sensitive and if the Darwan goes on leave without prior permission, it is definitely a matter of serious concern. We also see that the Applicant is not at all serious in retaining his job, especially when he was not at all serious in defending the charges framed against him.

7. In the above view of the matter, we find no merit in this Original Application; which is accordingly dismissed. No costs.


(B.N. SOM)
VICE-CHAIRMAN


16/04/2004
(MANDRAN JANMOHANTY)
MEMBER (JUDICIAL)