

For Ret *10*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.389 of 2006
Cuttack, this the 13th day of January, 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)

Sri Jayaram Dalai, aged about 61 years, Son of Late Nari Dalai,
Senior Accountant (Retd.) at present residing at Qrs No.C-21,
Old A.G.Colony, Unit-4, At/Po.Bhubaneswar, Dist. Khurda.

....Applicant

By Advocate : Miss Chitra Padhi & Mr. S.C.Beura.
- Versus -

1. Union of India represented through the Accountant General (A&E), Orissa, Bhubaneswar, Dist. Khurda.
2. Senior DAG (Admn.), Office of the A.G. (A&E) Orissa, Bhubaneswar, Dist. Khurda.
3. Sashi Bhushan Behera, DAG (Pension) Office of the AG (A&E) Orissa Bhubaneswar, Dist. Khurda.

....Respondents

By Advocate : Mr.U.B.Mohapatra,SSC.

O R D E R

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

Applicant is a retired employee of the A.G., Orissa, Bhubaneswar. By filing this OA he has challenged the charge sheets issued to him under Rule 14 of the CCS (CC&A) Rules, 1965 under Annexure-A/2 and A/7. He also seeks direction to the Respondents for revocation of his order of suspension dated 25.02.2005 (Annexure-A/6).

2. Respondents by filing counter strongly refuted the contentions raised by the Applicant in support of his prayer with further prayer that this OA being devoid of any merit is liable to be dismissed.

Applicant has also filed rejoinder contradicting some of the stand taken by the Respondents in the counter.

3. Heard learned counsel for both sides and perused the materials placed on record.

4. Before coming to the merit of the matter, we may record that direction for revocation of suspension and quashing of charge-sheet are two different and distinct cause of action. The Applicant has prayed two different and distinct reliefs in this OA. Rule 10 of the CAT (Procedure) Rules, 1987 provides that every application shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one another. As noticed, since both the reliefs claimed in this OA are different and distinct *prima facie* we are of the opinion that this OA ought not to have been entertained at the threshold. However this OA was filed in the year 2006 and in the meantime near about more than two years expired. The Applicant has retired from service and after his retirement the order of suspension ceased to exist. In view of the above, taking a lenient view of the matter we proceed to examine the prayer so far as the merit of quashing the charge sheet is concerned.

5. As regards the quashing of the ~~quashing~~ of the charge sheet ~~is concerned~~, it is seen that the matter is now under enquiry by the IO. It is

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well settled by a series of decisions of the SC that ordinarily no writ lies against a charge sheet or show cause notice vide **Executive Engineer, Bihar State Housing Board v. Ramesh Kumar Singh** [1996] 1 SCC 327; **Special Director v. Mohd. Ghulam Ghous** - AIR 2004 SC 1467; **Ulagappa v. Divisional Commr., Mysore** (2001) 10 SCC 639; **State of UP v. Prahm Datt Sharma** - AIR 1978 SC 943. The reason why ordinarily a writ petition should not be entertained against a mere show cause notice or charge sheet is that at that stage the writ petition may be held to be premature. A mere charge sheet or show cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ petition lies when some right of any party is infringed. A mere show cause notice or charge sheet does not infringe the right of anyone. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed that the said party can be said to have any grievance.

6. On examination of the factual scenario in the background of the legal principles set out above, we are not inclined to grant any of the

reliefs claimed in this OA. However, considering the fact that the applicant has already retired from service and a considerable time has already been consumed in the matter of culmination of the disciplinary proceedings initiated against him, we direct the Respondents to complete the disciplinary proceedings in question within a period of six months from the date of receipt of copy of this order.

7. In the result this OA stands disposed of with the observations and directions made above. Parties to bear their own costs.

KA DIAV

<u>SDP</u>	<u>SDP</u>
Member (J)	Member (A)

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