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O.A.No. 292 of 2007

Khageswar Patel

Applicant

Vrs.

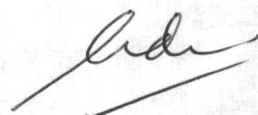
Union of India and others

Respondents

ORDER DATED 19th SEPTEMBER 2007

This Original Application was filed on 5.9.2007. Though M/s Budhadev Routray, D.K.Mohapatra, P.K.Dash, B.B.Routray, R.P.Dalei and D.Routray are on record as the learned counsels for the applicant, the applicant in person appeared before the Bench on 6.9.2007 and filed a Memo praying for listing the matter on the very day. However, the matter was directed to be placed before the Bench on 7.9.2007 for considering the question of admission and the prayer for interim relief.

2. On 7th September 2007 the applicant appeared in person and sought to be heard. As the applicant is represented by a number of learned Advocates, he should not have been permitted to make submissions, but for the non-appearance of his learned counsels on account of Advocate's strike on Court work before this Bench on the basis of purported CAT Bar Association resolutions. In this connection, I would like to refer to the decision in the case of **Ramon Services Private Limited vrs. Subhash Kapoor and others**, reported in **JT 2000 (Suppl.2) S.C. 546**, wherein at paragraphs 24, 27 and 28 Their Lordships have held that no

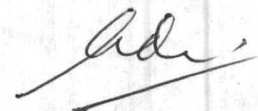


4 Advocate could take it for granted that he would appear before the Court according to his whims and fancies or conveniences. It would be against professional ethics for a lawyer to abstain from the Court when the cause of his client is called for hearing or further proceedings. In appropriate cases, the Court itself could pass effective orders for dispensation of justice with the object of inspiring confidence of the common man in the effectiveness of judicial system. Inaction will surely contribute to the erosion of ethics and values in the legal profession and the defaulting Courts might also be contributory to the contempt of the Hon'ble Supreme Court. Keeping in view the above decision of the Hon'ble Apex Court, I perused the records, heard the applicant in person, and reserved the order.

3. Applicant Khageswar Patel, who claims to have been working as Electrician (HS), Ordnance Factory, Badmal, Dist. Balangir (State of Orissa), has filed the Original Application praying for quashing the show cause notice dated 24.8.2007 (Annexure 2) and for other reliefs. He has also prayed for staying operation of the show cause notice dated 24.8.2007 (Annexure 1). Annexure 2 is the **show-cause notice** dated 24.8.2007 issued by the Works Manager (Administration) for General Manager, Ordnance Factory, Badmal, Bolangir, calling upon him to show



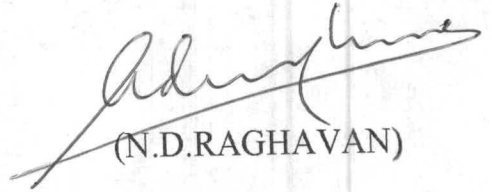
cause in writing, within seven days of receipt of the notice, as to why he would not be demoted from Wireman/HS grade to Wireman/Skilled Grade w.e.f. 20.5.2003, failing which the decision of the competent authority will be final. Instead of showing cause and/or submitting his reply to the show-cause notice dated 24.8.2007 (Annexure 2) the applicant appears to have rushed to the Tribunal and filed the present O.A. praying for quashing the show-cause notice. The applicant in paragraph 6 of the O.A. has declared that he has exhausted all the remedies by filing the representation before the authorities which is pending for adjudication. The applicant has not filed copy of any such representation along with the O.A. nor has he furnished the particulars of such representation in the averments thereof. He has not specifically stated in the O.A. as to whether he has filed any representation or reply to the show-cause notice dated 24.8.2007 which is assailed by him in the present O.A. Therefore, it is presumed that the applicant has neither made any representation for redressal of his grievance nor has he submitted his reply or representation in response to the show cause notice dated 24.8.2007. Even otherwise, this O.A. is premature and to be dismissed as such u/s 20(2)(b) of A.T.Act since six months have not expired from the date of representation on or reply to the show-cause notice dated 24.8.2007. As the applicant has merely assailed



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the show cause notice dated 24.8.2007 (Annexure 2), he cannot be held to be 'a person aggrieved by any order' within the meaning of Section 19 of the Administrative Tribunals Act, 1985 so as to maintain an Original Application before the Tribunal. In this view of the matter, the Original Application is too premature and liable to be rejected in limine.

4. In the result, the Original Application is rejected in limine at the stage of admission *itself. etc.*


(N.D.RAGHAVAN)

VICE-CHAIRMAN

*fix for pronouncement
on 19.09.07 @ 230 PM*
