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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.391 OF 2010

Cuttack this the 14th day of October, 2011

CORAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER
AND
HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

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Dr.V.Nandagopal, aged about 57 years, Son of Sri P.Veeraswamy, Senior Scientist,
20, Akash Ganga-II, N.K.Nagar, Madhuram Society, Timbawadi, Junagadh-362015
...Applicant

By the Advocates:M/s.S.K.Purohit & A.K.Das

-VERSUS-

1. Union of India represented by its Secretary, Indian Council of Agricultural Research, Krishi Bhawan, Dr.Rajendra Prasad Road, New Delhi
2. Director, Central Rice Research Institute, At/PO-Bidyadharpur, PS-Chauliaganj, Dist-Cuttack

...Respondents

By the Advocates:Mr.S.B.Jena

ORDER

A.K.PATNAIK, JUDICIAL MEMBER: In this Original Application under Section

19 of the A.T.Act, 1985, the applicant has sought for the following relief.

- i) Quash the impugned order Annexure-9 and/or substitute/reduce/scale down the punishment as the same is shockingly disproportionate to the offence committed, if any.
- ii) Direct the Respondent No.1 to reconsider the punishment in the light of the applicant's achievements and the consequential loss of loosing such an achieved efficient devoted scientist and exposing him to penury by awarding dismissal from serving having taken his service for 33 years.
- iii) Allow this application.

2. Briefly stated, the facts of the case are that the applicant, while working as Senior Scientist in CRRI, Cuttack, had been placed under suspension vide Annexure-A/2 dated 5.2.2010 due to conviction by the CBI Court, Ahmedabad vide judgment dated 31.12.2009 in Special Case No.8 of 2001 for the criminal offences under Section 120B of IPC, under Section 7 and 13(2) read with 13(1)(d)

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of the P.C.Act. In the above background, the applicant, vide Annexure-A/7 dated 8.4.2010 was called upon to explain as to why he should not be visited with the penalty of dismissal from service. The applicant submitted his explanation vide Annexure-A/8 dated 20.4.2010, in consideration of which the Disciplinary Authority imposed punishment of dismissal from service vide Annexure-A/9 dated 18.6.2010. Aggrieved with the punishment of dismissal, the applicant has moved this Tribunal in the present O.A. seeking the relief as referred to earlier.

3. On being noticed, the Respondents have filed a detailed counter opposing the prayer of the applicant. Applicant has filed rejoinder to the counter too.

4. We have heard Shri S.K.Purohit, learned counsel for the applicant and Shri S.B.Jena, learned counsel for the Respondent-ICAR and perused the materials on record.

5. From the record it reveals that the applicant without preferring appeal against the order of punishment has moved this Tribunal and as such he has not availed of statutory remedy available to him under the relevant service rules. In our considered view, the applicant ought to have put up his appeal before the Appellate Authority against the punishment of dismissal from service before approaching this Tribunal, as the Appellate Authority is the best judge in the matter to take a view regarding confirmation or otherwise of the punishment as imposed by the Disciplinary Authority. In this view of the matter, we direct the applicant to submit an appeal to the Appellate Authority against the punishment of dismissal from service within a period of three weeks hence and in case such an appeal is preferred, the Appellate Authority shall consider and dispose of the same

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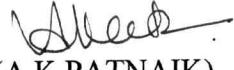
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through a reasoned and speaking order, under intimation to the applicant, within a period of two months from the date of receipt of such appeal.

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


(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER

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(A.K.PATNAIK)
JUDICIAL MEMBER