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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.347 OF 2011

Cuttack this the 26th day of May, 2011

CORAM:

HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

...
Madan Mohan Roy ...Applicant

-VERSUS-

Union of India & Ors. Respondents

ORDER

HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER:

1. Heard Shri B.S.Tripathy, learned counsel for the applicant and Shri S.K.Ojha, learned Standing Counsel, on whom a copy of this O.A. has already been served, appearing on behalf of the Respondents on the question of admission.
2. It is the case of the applicant that he had earlier approached this Tribunal in O.A.No.396/2010, for quashing the order of punishment imposed on him by the Disciplinary Authority, on conclusion of the disciplinary proceedings. This Tribunal, vide order dated 3.8.2010 disposed of the said O.A. as under:

"In view of the above, since it is the positive case of the applicant that no decision has been communicated to him on his revision petition dated 20th November, 2009 under Annexure-A/9 by the Revisional Authority till date, the Applicant is permitted to file petition in continuation of his Revision Petition under Annexure-A/9 as quickly as possible and in that event, the Revisional Authority is hereby directed to consider and dispose of the Revision Petition of the Applicant, if at all the same is still pending with him by taking into consideration the points now the applicant will furnish in the petition to be preferred by him in continuation of the Revision Petition already filed by him in Annexure-A/9 and communicate the result thereof in a well reasoned order to the applicant, in any event, within a period of three months from the date of receipt of this order".

3. The applicant, as revealed from the records, in pursuance of the order of this Tribunal, preferred a revision petition vide Annexure-A/8 dated 2.10.2010 in

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consideration of which the Revisionary Authority vide A/9 dated 9.11.2010, issued the following orders.

“I have gone through the entire case in great depth and after going through the reports, CO’s appeal along with the documents in the file, has come to the conclusion that the inquiry done in case of Shri M.M.Roy is not in order and is therefore set aside and the punishment as ordered by the Disciplinary Authority vide punishment notice No.SRDOM/SBRD7A/Optg.MMR/M/E.Gd./SBP/09/145 dated 07.04.09 and upheld by the Appellate Authority vide order No.ADRM/SBP/D&A/Optg/MMR/M/E Guard/09/208 dtd. 14.07.09 cannot be implemented.

In view of the facts and the directive of Hon’ble CAT/Cuttack, I pass the following orders taking into consideration the points raised by the charged employee in his appeal.

“A fresh D&D inquiry may be ordered observing all relevant and extant rules & instructions of D&A and further action may be initiated thereto”.

Shri Tripathy, based on the above order submitted that although the Revisionary Authority has set aside the entire disciplinary proceedings including the punishment, the punishment so imposed on the applicant is in force as the withheld annual increments have so far not been released in his favour, which in effect amounts maintaining the punishment in tact, besides initiating further proceedings within a view to impose further punishment. In this connection, the applicant has preferred a representation dated 2.5.2011 vide Annexure-A/11 and being apprehensive that a further inquiry conducted would be prejudicial to his interest, has moved this Tribunal in the present O.A. seeking the following relief:

- “a) To pass appropriate orders directing the Respondents-authorities to recall the order of punishment dtd. 07.04.2009 and the order dtd. 14.07.2009 in Annexure-A/3 and /5 respectively in view of the order dtd. 09.11.2010 passed by the Revisional Authority in Annexure-A/9;
- b) To pass appropriate orders directing the Respondents-authorities to restore the annual increment of the applicant and extend all the consequential benefits in his favour, to which the applicant is eligible and entitled”.

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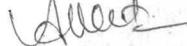
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I have considered the submissions made by the learned counsel for the parties and perused the materials on record.

Since the applicant's representation dated 2.5.2011 vide Annexure-A/11 is pending, without expressing any opinion on the merits of the case and as agreed to by the learned counsel for the parties, Respondent No.6 is directed to consider dispose of the said representation and pass a reasoned order as early as possible under intimation to the applicant. Until a decision is taken as directed above, the further proceedings shall be kept in abeyance.

With the above observation and direction, this O.A. is disposed of at the stage of admission. No costs.

Send a copy of this order along with copy of the O.A. to Respondent No.6 for compliance and free copies of this order be made available to the learned counsel for the parties.


JUDICIAL MEMBER