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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

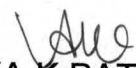
ORIGINAL APPLICATION NO.588 OF 2009
Cuttack this the 26th day of March, 2012

Benudhar Mahanta Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not?
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not?


(C.R. MOHAPATRA)
Member (Admn.)


(A.K. PATNAIK)
Member (Judicial)

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CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.588 OF 2009

Cuttack this the 26th day of March, 2012

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HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER
AND

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

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Benudhar Mahanta, aged about 45 years, S/o. Sri Mahendra Mahanta resident of Village/Post-Budhikapudi, Via/Ps-Turumunga, Dist. Keonjhar, Orissa, Pin-758046.

...Applicant

By Legal Practitioner -M/s.P.K.Padhi,M.P.J.Ray,
M.Rout,J.Mishra,K.Sharma,Counsel

-VERSUS-

1. Union of India represented through its Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Director of Postal Services, Sambalpur Region, At/Po/Dist. Sambalpur, 768 001.
3. Superintendent of Post Offices, Keonjhar Division, At/Po.Keonjhargarh, Dist. Keonjhar, Orissa, 758 001.

...Respondents

By the Advocates: Mr.U.B.Mohapatra,SSC

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O R D E R

A.K.PATNAIK, MEMBER (JUDL):

The Applicant while working as GDSBPM, Sudhikapudi Branch Post Office, at the end of the Disciplinary Proceedings initiated against him under Rule 10 of the Gramin Dak Sevaks (Conduct and Employment) Rules, 2001, by the order dated 31st March,2003 of his Disciplinary Authority (Superintendent of Post Offices, Keonjhar Division, Keonjhar/Respondent No.3) was removed from service with

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immediate effect. Appeal preferred by the Applicant against the said order of punishment was rejected and communicated to the Applicant in letter dated **11th December, 2004**. Being aggrieved by the said orders, the Applicant has filed the instant **OA on 30th October, 2009** with prayer to quash the order of the Disciplinary Authority under Annexure-A/7 & the order of the Appellate Authority under Annexure-A/8 and to direct the Respondents to reinstate him to service with all consequential service and financial benefits. By filing MA No. 597 of 2009 the applicant has also sought to condone the delay in approaching this Tribunal belatedly.

2. The Respondents by filing their counter has stated that the applicant having denied the charges levelled against him, an enquiry was conducted in which the Applicant was allowed opportunity to defend his case. The IO submitted his report holding the charges proved after which copy of the report of the IO was supplied to the applicant inviting his objection, if any. After submission of defence, the Disciplinary Authority considering the materials available on record including the defence submitted by the Applicant imposed the punishment of removal from service with immediate effect. Appeal preferred by the applicant was duly considered but the same was

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rejected by way of a well reasoned order that was communicated to the applicant vide letter under Annexure-A/8. Accordingly, it has been submitted that since the proceedings were conducted strictly in accordance with Rules in which the applicant was allowed all reasonable opportunities to defend his case there is no scope for this Tribunal to interfere in the matter and thus it was submitted that this OA being devoid of any merit is liable to be dismissed.

3. Mr. P.K.Padhi, Learned Counsel for the Applicant mainly challenged the procedural lapses in conducting the enquiry on the ground that the IO during enquiry examined and cross examined the witnesses/CO and submitted report holding the charges proved which is not permissible under law. The Disciplinary Authority imposed the punishment on the basis of the said report of the IO which was subsequently upheld by the Appellate Authority without considering this vital aspect of the matter. This apart, it was contended by Mr. Padhi, that the vital documents sought for by the applicant was not supplied though the relevancy was stated by him whereas the documents sought by the PO during enquiry was acceded to by the IO. Hence, it was contended by Mr. Padhi, Learned Counsel for the Applicant that the report of the IO is not sustainable for the

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reasons stated above and hence the consequential order passed by the Disciplinary as well as the Appellate Authority must also be held to be unsustainable.

4. This was disputed/refuted by Mr. U.B. Mohapatra, Learned Senior Standing Counsel appearing of the Respondent-Department. It was contended by him that the IO had never examined and cross examined the witnesses/CO during enquiry. As required under the Rules the IO only put some questions to the witness as he thought proper in connection with the inquiry. Similarly, Mr. Mohapatra denied the allegation of the applicant that while denying the request of the applicant for supply of additional documents such request of the PO was acceded to by the IO. In this connection, it was contended by him that the IO rejected the request of the Applicant with regard to supply of the documents as those documents were either vital or listed documents. Mr. Mohapatra, Learned Standing Counsel appearing for the Respondents besides merit has prayed for dismissal of this OA on the ground of limitation.

5. We have considered the submissions made by the learned counsels appearing on behalf of the parties and perused the materials placed on record. We find that as against

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the order of the Disciplinary Authority dated 31st March, 2003, the Applicant preferred appeal on 23.06.2003 which was rejected vide letter dated 11-08-2004. The Applicant filed this OA after more than five years i.e. on 30th October, 2009 seeking to quash the order of the Disciplinary Authority and Appellate Authority. As per provision under Section-21 of the A.T.Act, 1985, he should have approached the Tribunal within one year of the order dated 11-08-2004. By filing petition, applicant has sought condonation of delay on the ground that due to high blood pressure he was completely bed ridden from 10-04-2005 to 18-10-2009. But the Applicant has not explained as to what prevented him from approaching the Tribunal after receipt of the order dated 11.8.2004 and prior to 10.04.2005. This apart, the plea that due to high blood pressure he was completely bed ridden from 10.4.2005 to 18.10.2009 for which could not approach this Tribunal on time is not found convincing. In this view of the matter, we cannot but to hold that the present O.A is grossly barred by limitation and is accordingly dismissed by leaving the parties to bear their own costs.


(C.R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(A.K. PATNAIK)
JUDICIAL MEMBER